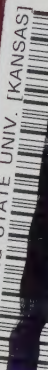


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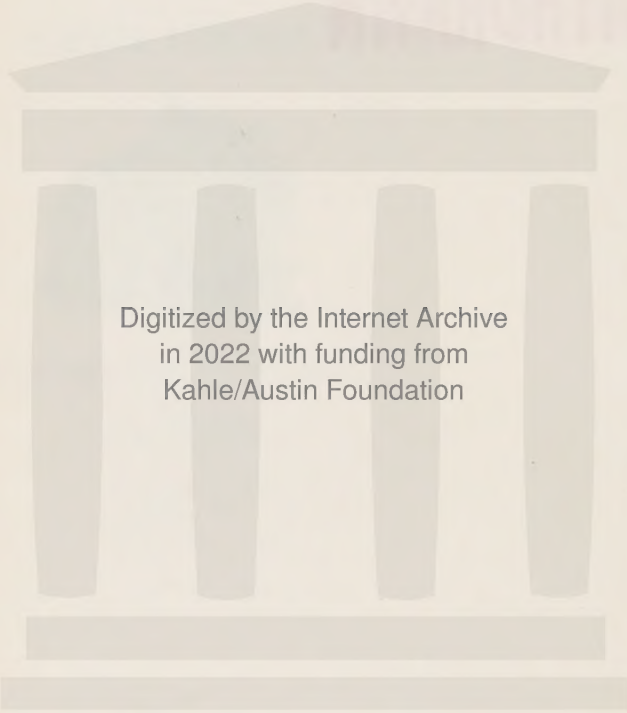
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Washington

ARBITRATION TREATIES

AMONG THE

AMERICAN NATIONS

TO THE CLOSE OF THE YEAR 1910

EDITED BY
WILLIAM R. MANNING

Division of Latin-American Affairs
Department of State

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INTRODUCTORY NOTE

Before the outbreak of the World War, the Division of International Law of the Carnegie Endowment for International Peace undertook the collection of all treaties of arbitration with the view of publishing a series of volumes containing them in a systematic arrangement and in their original languages as well as in English translation where the original text was not in English, but the war effectually stopped the work of collection so far as European countries were concerned. It was practicable nevertheless to continue the collection of treaties between the nations of the American Continent, and it has been decided to issue them in this English edition.

It will be observed that no treaties are included in the volume of a date later than 1910. The reason is that the project was authorized by the Trustees of the Endowment in 1911 by a Resolution limiting the period to be covered to 1910 and it is in pursuance of this Resolution that the work was begun and is now offered to the public.

The work of collecting and editing the treaties has been done by Professor William R. Manning, formerly of the University of Texas and for several years past attached to the Division of Latin-American Affairs of the Department of State at Washington. A counterpart of the present volume in the original languages was also prepared by Professor Manning simultaneously with the preparation of the English version; but the publication of the foreign texts is withheld awaiting the reception of the English version by the interested reading public.

JAMES BROWN SCOTT,
Director of the Division of International Law.

WASHINGTON, D.C.,
Thanksgiving Day, 1923.

PREFACE

This collection is designed to include, in so far as it has been practicable, all arbitration treaties, and all arbitral clauses of other treaties, which were signed between or among American nations before the close of 1910 and duly ratified.

Those who have been charged with arranging and editing the collection in its present form have not been able to satisfy themselves that they have located and incorporated all that should be comprised in the collection. The fullest and frankest criticism of this preliminary compilation is invited with reference to the inclusion or exclusion of texts and to the editorial notes, tables of contents, and other devices intended to facilitate the use of the work.

It is especially desired that any omissions noted shall be pointed out. It is probable also that some treaties have been included that never were fully ratified or operative. The purpose of the editor has been to err, where he has erred, on the side of inclusion rather than exclusion. In case positive information has been obtained that either contracting party failed to ratify an agreement which required ratification, or in case it is known that ratifications were never exchanged of an agreement requiring an exchange of ratifications, it has been rejected. But in case such positive information has not been obtained and it is known that either party ratified the agreement, it has been included, especially when found in the official treaty collections of the contracting states, the known fact or facts concerning ratification being given and the doubts pointed out. If an agreement specifically states that ratifications shall be unnecessary or if it does not state that ratifications shall be necessary it has been included and these facts pointed out. Some agreements have been included for which no facts concerning ratifications or exchange thereof have been obtained, although they specifically provide for ratification, since positive evidence exists that the arbitration provided for was carried out.

In the citations of sources it will be noticed that in some cases no English source is cited. In all such cases the English translation has been supplied by the Endowment's translators. In some of the English translations which have been copied from printed sources, numerous changes have been made in order to rectify evident errors or improve imperfect translations. Notwithstanding the care that

has been exercised, it is not improbable that imperfect translations will still be found. It is possible that imperfections have in some instances been introduced in the effort to improve existing translations.

In the arrangement of the names of countries in the titles of treaties, the footnotes, the chronological table of contents, and the geographical table, an effort has been made to adhere to a strictly alphabetical arrangement. The commonly accepted abbreviated names of countries have been used instead of the exact legal designations, as, for example, United States instead of United States of America, Mexico instead of United States of Mexico, and Chile instead of Republic of Chile.

WILLIAM R. MANNING.

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Haiti.....	April 25, 1910	General	224	462
Honduras.....	April 26, 1909	General	212	431
Mexico.....	April 11, 1909	General	210	428
Paraguay.....	January 9, 1872	Certain claims	58	91
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Bolivia	April 4, 1884	Certain claims	95	137
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Peru	September 27, 1871	Specific claim	57	89
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Peru	August 1, 1887	Boundary	109	170
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Guatemala	July 24, 1839	General	13	19
Guatemala	September 30, 1862	General	38	56
Guatemala and Salvador	August 26, 1873	Boundary	64	97
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Guatemala	December 27, 1883	General	93	134
Guatemala, Honduras and Salvador	May 23, 1893	General	124	198
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Honduras	March 13, 1878	General	76	113
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Honduras	October 7, 1894	Boundary	128	211
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Mexico	November 6, 1900	Interpretation	158	295
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Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Do- minican Republic, Ecuador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Para- guay, Salvador, United States, Uruguay, Venezuela and non-American powers . .	July 29, 1899	General (Hague Convention)	152	266
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Argentina, Bolivia, Chile, Co- lombia, Costa Rica, Domini- can Republic, Ecuador, Guatemala, Haiti, Hondur- as, Mexico, Nicaragua, Paraguay, Salvador, United States and Uruguay	January 30, 1902	Pecuniary claims	164	313
Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Hon- duras, Mexico, Nicaragua, Panama, Salvador, United States and Uruguay	August 13, 1906	Pecuniary claims	188	362
Argentina, Brazil, Chile, Co- lombia, Costa Rica, Cuba, Dominican Republic, Ecu- ador, Guatemala, Haiti, Hon- duras, Mexico, Nicaragua, Panama, Paraguay, Salva- dor, United States, Uruguay and Venezuela	August 11, 1910	Pecuniary claims	227	469
Bolivia	November 8, 1831	Interpretation	8	10
Bolivia	April 19, 1840	Certain disputes	14	24
Bolivia	October 10, 1848	Specific claim	19	29
Bolivia	November 5, 1863	General	42	65
Bolivia	February 6, 1873	General	63	97
Bolivia	April 20, 1886	Interpretation	104	159
Bolivia	April 24, 1886	Boundary	105	162
Bolivia	August 26, 1895	Question of honor	140	238
Bolivia	September 7, 1895	Question of honor	141	240
Bolivia	November 21, 1901	General	160	297
Bolivia	September 23, 1902	Boundary	170	334
Bolivia	December 30, 1902	Boundary	171	334
Bolivia	November 27, 1905	Interpretation	186	361

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<i>Peru—Continued</i>				
Brazil.....	July 12, 1904	Boundary	180	353
Brazil.....	July 12, 1904	Certain claims	179	351
Brazil.....	September 8, 1909	Boundary	219	448
Brazil.....	December 7, 1909	General	221	450
Chile.....	April 26, 1823	Interpretation	3	4
Chile.....	October 31, 1868	Specific claim	51	78
Chile.....	September 27, 1871	Specific claim	57	89
Chile.....	December 22, 1876	General	75	113
Chile.....	October 20, 1883	Certain claims	91	133
Colombia.....	July 6, 1822	General	1	1
Colombia.....	February 28, 1829	Specific claim	6	8
Colombia.....	September 22, 1829	Interpretation; boundary; specific claim; general	7	9
Colombia.....	March 8, 1858	General	30	41
Colombia.....	February 10, 1870	General	54	84
Colombia.....	August 6, 1898	General	148	255
Colombia.....	April 21, 1909	Boundary	211	429
Colombia.....	April 13, 1910	Boundary	223	457
Ecuador.....	July 12, 1832	General	9	11
Ecuador.....	March 16, 1853	Specific dispute	21	30
Ecuador.....	January 25, 1860	General	35	49
Ecuador.....	August 1, 1887	Boundary	109	170
Ecuador.....	January 21, 1904	Specific claim	178	350
Ecuador.....	October 22, 1904	Certain claim	182	354
Nicaragua.....	October 9, 1879	General	78	114
United States.....	December 20, 1862	Specific claim	40	60
United States.....	January 12, 1863	Certain claims	41	62
United States.....	December 4, 1868	Certain claims	52	79
United States.....	May 17, 1898	Specific claim	147	253
United States.....	December 5, 1908	General	201	406
Venezuela.....	April 1, 1859	General	34	48
Salvador				
Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Do- minican Republic, Ecuador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Para- guay, Peru, United States, Uruguay, Venezuela, and non-American powers.....	July 29, 1899	General (Hague Convention)	152	266
Argentina, Bolivia, Domini- can Republic, Guatemala, Mexico, Peru, and Uruguay.	January 29, 1902	General	163	307
Argentina, Bolivia, Chile, Co- lombia, Costa Rica, Domini- can Republic, Ecuador,				

Signatory states	Date of signature	Nature of arbitration	No.	Page
<i>United States—Continued</i>				
Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Salvador, and Uruguay.....	August 13, 1906	Pecuniary claims	188	362
Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela.....	August 11, 1910	Pecuniary claims	227	469
Bolivia, Brazil, Cuba, Guatemala, Haiti, Panama, Mexico, Salvador, and non-American powers.....	October 18, 1907	General (Hague Convention)	193	368
Brazil.....	March 14, 1870	Specific claim	55	85
Brazil.....	September 6, 1902	Specific claim	169	332
Brazil.....	January 23, 1909	General	207	415
Chile.....	November 10, 1858	Specific claim	32	43
Chile.....	August 7, 1892	All claims	125	202
Chile.....	December 1, 1909	Specific claim	220	448
Colombia.....	September 10, 1857	Certain claims	28	37
Colombia.....	February 10, 1864	Certain claims	43	66
Colombia.....	August 17, 1874	Certain claims	68	101
Costa Rica.....	July 2, 1860	Certain claims	36	50
Costa Rica.....	January 13, 1909	General	206	414
Dominican Republic.....	April 28, 1902	Specific claim	166	320
Dominican Republic.....	January 31, 1903	Specific claim	172	337
Ecuador.....	November 25, 1862	Certain claims	39	57
Ecuador.....	February 28, 1893	Specific claim	126	207
Ecuador.....	January 7, 1909	General	203	409
Guatemala.....	February 23, 1900	Specific claim	155	288
Haiti.....	May 28, 1884	Certain claims	96	138
Haiti.....	January 25, 1885	Certain claims	98	144
Haiti.....	May 24, 1888	Specific claim	111	178
Haiti.....	October 18, 1899	Specific claim	153	282
Haiti.....	January 7, 1909	General	204	411
Mexico.....	April 11, 1839	Certain claims	11	13
Mexico.....	February 2, 1848	General	18	28
Mexico.....	December 30, 1853	General	22	31
Mexico.....	July 4, 1868	Certain claims	48	72
Mexico.....	April 19, 1871	Certain claims	56	87
Mexico.....	November 27, 1872	Certain claims	61	95
Mexico.....	November 20, 1874	Certain claims	69	103
Mexico.....	April 29, 1876	Certain claims	73	110
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Signatory states	Date of signature	Nature of arbitration	No.	Page
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Mexico.....	November 21, 1900	Boundary	159	295
Mexico.....	May 22, 1902	Specific claim	167	322
Mexico.....	March 24, 1908	General	199	404
Mexico.....	June 24, 1910	Specific boundary case	226	465
Mexico.....	December 5, 1910	Specific boundary case	228	472
Nicaragua.....	March 22, 1900	Certain claims	156	291
Panama.....	November 18, 1903	Certain claims	177	349
Paraguay.....	February 4, 1859	Specific claim	33	45
Paraguay.....	March 13, 1909	General	209	426
Peru.....	December 20, 1862	Specific claim	40	60
Peru.....	January 12, 1863	Certain claims	41	62
Peru.....	December 4, 1868	Certain claims	52	79
Peru.....	May 17, 1898	Specific claim	147	253
Peru.....	December 5, 1908	General	201	406
Salvador.....	May 4, 1864	Specific claim	44	67
Salvador.....	December 19, 1901	Certain claims	161	300
Salvador.....	December 21, 1908	General	202	408
Uruguay.....	January 9, 1909	General	205	412
Venezuela.....	April 25, 1866	Certain claims	46	68
Venezuela.....	December 5, 1885	Certain disputes	100	147
Venezuela.....	January 19, 1892	Certain claims	123	195
Venezuela.....	February 17, 1903	All pending claims	173	341
Venezuela.....	February 13, 1909	Certain claims	208	417
<i>Uruguay</i>				
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Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Do- minican Republic, Ecuador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Para- guay, Peru, United States, Salvador, Venezuela and non-American powers.....	July 29, 1899	General (Hague Convention)	152	266
Argentina, Bolivia, Dominican Republic, Guatemala, Mex- ico, Peru and Salvador.....	January 29, 1902	General	163	307
Argentina, Bolivia, Chile, Co- lombia, Costa Rica, Domini- can Republic, Ecuador, Guatemala, Haiti, Hondu- ras, Mexico, Nicaragua, Par- aguay, Peru, Salvador and United States.....	January 30, 1902	Pecuniary claims	164	313
Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic,				

Signatory states	Date of signature	Nature of arbitration	No.	Page
Uruguay— <i>Continued</i>				
Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Salvador, and United States.	August 13, 1906	Pecuniary claims	188	362
Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, United States, and Venezuela.	August 11, 1910	Pecuniary claims	227	469
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Salvador.	February 7, 1883	General	88	131
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Venezuela				
Argentina, Bolivia, Brazil, Chile, Colombia, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, United States, Uruguay, and non-American powers.	July 29, 1899	General (Hague Convention)	152	266
Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, United States, and Uruguay.	August 11, 1910	Pecuniary claims	227	469
Brazil.	April 30, 1909	General	213	433
Colombia.	July 23, 1842	General	15	25
Colombia.	September 14, 1881	Boundary	84	126
Colombia.	February 15, 1886	Boundary	103	157
Ecuador.	November 16, 1838	Interpretation	10	12
Mexico.	February 26, 1903	Certain claims	174	343
Peru.	April 1, 1859	General	34	48
Salvador.	August 27, 1883	General	90	133
United States.	April 25, 1866	Certain claims	46	68
United States.	December 5, 1885	Certain disputes	100	147
United States.	January 19, 1892	Certain claims	123	195
United States.	February 17, 1903	All pending claims	173	341
United States.	February 13, 1909	Certain claims	208	417

No. 1

COLOMBIA—PERU

*Provision for general arbitration in a treaty additional to one of union, league, and confederation of the same date.—Signed at Lima, July 6, 1822*¹

ARTICLE I

To draw more closely the bonds which should in future unite the two states, and to remove any difficulty which may present itself or interrupt in any manner their harmonious relations, an assembly shall be formed, composed of two plenipotentiaries for each party, chosen in the manner and with the formalities which, in conformity to established usages, ought to be observed in the appointment of ministers of similar character near the governments of foreign nations.

ARTICLE II

The two parties oblige themselves to interpose their good offices with the governments of the other states of America, formerly Spanish, to enter into this compact of perpetual union, league, and confederation.

ARTICLE III

As soon as this great and important object has been attained, a general assembly of the American states shall be convened, composed of their plenipotentiaries, which shall be charged with establishing and uniting in the most enduring manner the intimate relations which ought to exist between all and each of them, and which shall serve as a council in great conflicts, as a rallying point in common dangers, as a faithful interpreter of their public treaties when difficulties occur, and as an umpire and conciliator in their disputes and differences.

¹ English: *American State Papers, Foreign Relations*, vol. v, p. 843.

Spanish: *Tratados Públicos de Colombia*, vol. II (1884), p. 102.

Ratified by Colombia, July 12, 1823; and by Peru, November 17 of the same year, excepting the words "*juez árbitro*," translated "umpire," in the third article, and with the declaration that the representatives to the general American Assembly should have a diplomatic character only. As Wiesse points out, in his *Tratados de Arbitramiento Internacional*, p. 4, the Peruvian modification changed this from an arbitration treaty proper to one of mediation and good offices. Noboa, *Tratados del Ecuador*, vol. I, p. 101, gives November 12 as the date of Peru's ratification.

This and similar treaties between Colombia and other powers were signed during the wars for independence from Spain. They led to the assembling of the first international American conference, the Panama Congress of 1826. Articles I, II, and III of this treaty are almost identical with Articles XII, XIII, and XIV of the following one between Chile and Colombia of October 21, 1822, No. 2, *post*, p. 2; and Articles I to V of this are entirely identical with Articles XII to XVI of that between Colombia and Mexico of October 3, 1823, No. 4, *post*, p. 5, with the exception of the name of the country in the first sentence of the fifth article.

ARTICLE IV

The Isthmus of Panama, the most suitable place for the meeting of this august assembly, being an integral part of Colombia, that republic cheerfully obliges itself to afford to the plenipotentiaries who may compose the assembly of the American states all the assistance which hospitality among brotherly people and the sacred and inviolable character of their persons demand.

ARTICLE V

Whenever, because of the fortunes of war or by the consent of the majority of the American states, the said assembly shall meet in the territory dependent on Peru, the latter state assumes hereby the same obligation that the Republic of Colombia has assumed in the preceding article, which shall apply not only to the Isthmus of Panama, but also to any other point of Colombian jurisdiction, which may be considered appropriate for this most interesting purpose because of Colombia's central position between the northern and southern states constituting what was formerly Spanish America.

No. 2

CHILE—COLOMBIA

*Provision for general arbitration in a treaty of union, league, and confederation.—Signed at Santiago, October 21, 1822*¹

ARTICLE XII

To draw more closely the bonds which should in future unite the two states, and to remove any difficulty which may present itself or

¹ English: *American State Papers, Foreign Relations*, vol. v, p. 840.

Spanish: *Tratados Públicos de Colombia*, vol. II (1884), p. 17. See also Noboa, *Tratados del Ecuador*, vol. I, p. 107, and in Cadena, *Anales Diplomáticos de Colombia*, p. 311.

Ratified by Colombia July 12, 1823, excepting Article X, part of Article IX, and certain words of Article II, none of which are here printed. A clause of the treaty provided that it should be ratified by the Government of Chile with the approval of the National Convention within three days. But it is explained in an additional article signed November 20, following, that the Chilean legislative body had adjourned two days after the signature of the convention without having had time to discuss it; and an additional four months' period was allowed for the Chilean ratification. There is doubt whether it ever was ratified by Chile or exchanged.

Articles XII, XIII, and XIV of this are nearly identical with Articles I, II, and III of the treaty between Colombia and Peru of July 6, 1882, No. 7, *post*, p. 9, and Articles XII to XIV of that between Colombia and Mexico of October 3, 1823, No. 4, *post*, p. 5. This between Chile and Colombia contains practically all the provisions not only of the additional treaty between Colombia and Peru, *ante*, p. 1, but that of the same day to which it was additional.

interrupt in any manner their harmonious relations, an assembly shall be formed, composed of two plenipotentiaries for each party, chosen in the manner and with the formalities which, in conformity to established usages, ought to be observed in the appointment of the ministers of similar character near the governments of foreign nations.

ARTICLE XIII

The two parties oblige themselves to interpose their good offices with the governments of the other states of America, formerly Spanish, to enter into this compact of union, league, and confederation.

ARTICLE XIV

As soon as this great and important object has been attained, a general assembly of the American states shall be convened, composed of their plenipotentiaries, which shall be charged with establishing in the most solid and stable manner, the intimate relations which ought to exist between all and each of them, and which shall serve as a council in great conflicts, as a rallying point in common dangers, as a faithful interpreter of their public treaties when difficulties occur, and as an umpire and conciliator in their disputes and differences.

ARTICLE XV

The Republic of Colombia and the state of Chile bind themselves cheerfully to afford to the plenipotentiaries who may compose the assembly of the American states all the assistance which hospitality among brotherly people and the sacred and inviolable character of their persons demand, whenever the plenipotentiaries shall choose their place of meeting in any part of the territory of Colombia or of Chile.

No. 3

CHILE—PERU

Provision for arbitration of disputes which might arise concerning the terms of this convention, in which Chile lent financial and military assistance to Peru during the war for independence from Spain.—Signed at Santiago, April 26, 1823.¹

ARTICLE XII

Although an effort has been made to draw up the articles of this treaty in clear and precise terms, nevertheless, if contrary to expectation, any doubt should arise, the contracting parties shall endeavor to remove it in a friendly manner, it being understood that the Government of Chile has not desired nor considered it consistent with its dignity or its interest in the cause of independence to create a debt of honor by, or obtain any advantage in return for, the assistance rendered to Peru; but it shall also be understood that it neither is nor ought to be the thought of Chile nor the intention of Peru that the former should overburden itself by the sacrifices which it has constantly made, as a friend and ally, for the latter. If, with this understanding, the doubts that may arise should not be removed in a friendly manner, they shall be submitted to the decision of the Supreme Director of the United Provinces of the Río de la Plata (Governor of the provinces of Buenos Aires), or of His Majesty the Emperor of Brazil, or of the President of the United States of North America, or of the President of Colombia, in the order in which they are named; and the said contracting parties shall not appeal in any way from the decision which any one of them may render.

¹ Spanish: Aranda, *Tratados del Perú*, vol. iv, p. 6. See also Wiesse, *Tratados de Arbitramento*, p. 149.

Ratified by Chile, May 6, 1823, ten days after the date of signature, although the treaty provided that it should be ratified within two days by that government. It also provided that it should be ratified by Peru as soon as possible, and that ratifications were to be exchanged as soon as the distance would permit. But owing to the urgency of the matter and in view of the full powers which the Peruvian negotiator bore, execution was to begin at once. *Tratados de Chile*, vol. 1 (1894), p. 6, where the text is also found, says it appears never to have been ratified by Peru, but that there is no evidence of that government's having refused ratification. On the contrary the President of Peru had drawn on the loan before the agreement was concluded, and the Peruvian negotiator at Santiago made two considerable drafts on it within a few days after Chile's ratification. Subsequently, by a treaty of September 12, 1848, Peru recognised the debt created by this of 1823 and provided for its payment with interest. Two other conventions, of 1854 and 1856, dealt with the same matter.

No. 4

COLOMBIA—MEXICO

Provision for general arbitration in a treaty of union, league, and confederation.—Signed at Mexico, October 3, 1823.¹

ARTICLE XII

To draw more closely the bonds which should in future unite the two states, and to remove any difficulty which may present itself or interrupt in any manner their harmonious relations, an assembly shall be formed, composed of two plenipotentiaries for each party, chosen in the manner and with the formalities which, in conformity to established usages, ought to be observed in the appointment of ministers of similar character near the governments of foreign nations.

ARTICLE XIII

The two parties oblige themselves to interpose their good offices with the governments of the other states of America, formerly Spanish, to enter into this compact of perpetual union, league and confederation.

ARTICLE XIV

As soon as this great and important object has been attained, a general assembly of the American states shall be convened, composed of their plenipotentiaries, which shall be charged with establishing and uniting in the most enduring manner the intimate relations which ought to exist between all and each of them, and which shall serve as a council in great conflicts, as a rallying point in common dangers, as a faithful interpreter of their public treaties when difficulties occur, and as an umpire and conciliator in their disputes and differences.

ARTICLE XV

The Isthmus of Panama, the most suitable place for the meeting of this august assembly, being an integral part of Colombia, that republic cheerfully obliges itself to afford to the plenipotentiaries who

¹ English, *American State Papers, Foreign Relations*, vol. v, p. 843, which is the additional treaty between Colombia and Peru of July 6, 1822; but see footnote to that treaty, No. 1, ante, p. 1.

Spanish, *Tratados Públicos de Colombia*, vol. II (1824), p. 25. See also in Cadena, *Anales Diplomáticos de Colombia*, p. 276; Wiesse, *Tratados de Arbitramento*, p. 5; and *Tratados y Convenios Concluidos y Ratificados por México (Derecho Internacional Mexicano)*, pt. 1, p. 354; and Noboa, *Tratados del Ecuador*, vol. I, p. 119.

Ratified by both parties, excepting Article X, part of Article II, and the words "juez árbitro," translated "umpire," in Article XIV. See note concerning Peru's conditional ratification of No. 1, ante, p. 1. Ratifications were exchanged at Mexico, September 2, 1825.

may compose the assembly of the American states all the assistance which hospitality among brotherly people and the sacred and inviolable character of their persons demand.

ARTICLE XVI

Whenever, because of the fortunes of war or by the consent of the majority of the American states, the said assembly may meet in the territory dependent on Mexico, the latter state assumes hereby the same obligation that the Republic of Colombia has assumed in the preceding article, which shall apply not only to the Isthmus of Panama but also to any other point of Colombian jurisdiction, which may be considered appropriate for this most interesting purpose because of Colombia's central position between the northern and southern states constituting what was formerly Spanish America.

No. 5

CENTRAL AMERICA—COLOMBIA

*Provision for general arbitration in a treaty of union, league, and confederation.—Signed at Bogotá, March 15, 1825*¹

ARTICLE XV

In order to rivet more closely the ties which should in the future unite the two states, and to remove any difficulty which might arise to interrupt in any degree the good understanding and harmony existing between them, an assembly shall be formed, composed of two plenipotentiaries for each party chosen in the manner and with the formalities that, according to established usage, are observed in the nomination of ministers of similar rank in other nations.

¹ English: *British and Foreign State Papers*, vol. xii, p. 808.

Spanish: *Tratados Públicos de Colombia*, vol. II (1884), p. 13.

Ratified without change by Colombia, April 12, 1825; and on September 12 of the same year the Central American Government ratified it with a slight change in Article V, and with the declaration that the General Assembly should have the power of arbitrator, "juez árbitro," in disputes arising between Central America and other nations which had conferred, or should confer, the same power on it; but in other cases it should act as conciliator only. With these differences the ratifications were exchanged at Guatemala, June 17, 1826, according to the Spanish source.

Notice the similarity between the articles quoted from this treaty and those taken from the treaties which Colombia had concluded with Peru, July 6, 1822, Chile, October 21, 1822, and Mexico, October 3, 1823, Nos. 1, 2, and 4, *ante*, pp. 1, 2, and 5. The text is also found in Noboa, *Tratados del Ecuador*, vol. I, p. 152; and parts of it in *Tratados de Arbitraje de Nicaragua*, p. 103, and Wiese, *Tratados de Arbitramiento*, p. 5. The last says the ratifications were exchanged July 17, 1826.

ARTICLE XVI

The two parties agree to interpose their good offices to induce the governments of the other states of America, formerly Spanish, to enter into this compact of perpetual union, league, and confederation.

ARTICLE XVII

As soon as this important object shall have been attained, a general assembly shall meet, composed of the plenipotentiaries of the American states, whose functions it shall be to establish in the most enduring and stable manner the intimate relations which ought to subsist between each and all of them and which shall serve them as a council in all great emergencies, to form a point of support in all common dangers, to be a faithful interpreter of their public treaties, whenever difficulties arise respecting them, and to be an arbiter and conciliator in all their disputes and differences.

ARTICLE XIX

The Isthmus of Panama being an integral part of Colombia, and the most convenient spot for the meeting of this august assembly, that republic cordially promises to afford to the plenipotentiaries of whom it may be composed, all the good offices demanded by hospitality between fraternal nations, and by the sacred and inviolable character of their persons.

ARTICLE XX

Should it happen that because of the fortunes of war or by agreement of the majority of the American states, the said assembly should meet within its territory, the United Provinces of Central America assume the same obligation that has been assumed by the Republic of Colombia, in the preceding article, which shall apply not only to the Isthmus of Panama, but also to any other point of Colombian jurisdiction which may be thought fit for this most interesting object, on account of its central position between the northern and southern states constituting what was formerly Spanish America.

No. 6

COLOMBIA—PERU

*Provision for arbitration of any dispute that might arise concerning the debt which Peru owed to Colombia for aid in the war for independence, in a preliminary treaty of peace.—Signed at Jirón, February 28, 1829*¹

ARTICLE II

The contracting parties, or their respective governments, shall appoint a commission for the settlement of the limits of the two states, adopting as a basis the political division of the Vice Royalties of New Granada and Peru of August 1809, when the Revolution of Quito occurred; and they mutually engage to give up, on either side, the small portions of territory, which, owing to the want of a positive line of demarkation, have been productive of inconvenience to the inhabitants.

ARTICLE III

The same commission shall settle the amount of the debt due by Peru to Colombia, on account of the war of independence. This debt, with the interest thereon, from the date when the expenses were incurred, shall be paid within the period of eighteen months, in such manner as shall be agreed upon. The debts of individuals, the payment of which has been suspended, shall be settled in a regular manner; the right of creditors to commence actions at law, and to proceed to the recovery of them, being hereby secured. In the event of any difference of opinion, with regard to the national debt above mentioned, Colombia and Peru shall, each of them, appoint one of the governments of America to act as arbitrators between them.

¹ English: *British and Foreign State Papers*, vol. xvi, p. 1237.

Spanish: Aranda, *Tratados del Perú*, vol. iii, p. 199.

Ratified by both powers, March 1, 1829; but under the following circumstances: It was signed just after the defeat of a Peruvian army by a Colombian army, the negotiators having been appointed by the respective commanders; and the acts of ratification were by them. The Peruvian commander was General La Mar, President of the Republic. The Constituent Congress of Peru insisted that the President alone could not legally ratify a treaty. The Colombian Government held that it was binding on both countries. A Peruvian manifesto and an exchange of notes concerning the matter are given in the Spanish source, pp. 203-13. President La Mar was overthrown and exiled. An armistice was arranged, and a definitive treaty of peace was concluded on September 22, 1829, which contained practically the same terms as this preliminary treaty concerning a commission to arrange the boundary and Peru's debt to Colombia, and a provision for general arbitration. See *post*, No. 7, p. 9.

No. 7

COLOMBIA—PERU

*Provision for the arbitration of differences arising out of this treaty of peace, especially concerning the boundary and Peru's debt to Colombia; and also a provision for general arbitration.—Signed at Guayaquil, September 22, 1829*¹

ARTICLE XIX

The Republics of Peru and Colombia, sincerely desirous of preserving the peace and good understanding which they have happily reestablished by the present treaty, solemnly and formally declare:

1. That, in case a doubt should arise respecting the meaning of any one or more of the articles contained in this treaty, or it be not practicable to come to a mutual understanding, on any of the points, respecting which a difference of opinion may be entertained by the commissioners to be appointed in virtue of Articles VI and X² of the said treaty, each party shall represent to the other the reasons upon which it founds its opinion; and, should they not afterwards agree upon the point, they shall each submit a circumstantial exposition of the case to a friendly government, whose decision shall be absolutely obligatory upon both parties.

2. That, whatever ground of misunderstanding may arise between the two Republics, whether on account of complaints of injuries, insults, or other grievances, it shall not be lawful for either of them to authorize acts of reprisal, nor to declare war against the other, without previously submitting their differences to the government of a power friendly to both parties.

3. That, before they apply to a third power, to decide their doubts upon any one or more of the articles contained in the present treaty,

¹ English: *British and Foreign State Papers*, vol. xvi, p. 1246.

Spanish: *Tratados Públicos de Colombia*, vol. II (1884), p. 107.

Ratified by both powers without change, declarations of the same date included, and the ratifications were exchanged at Guayaquil, October 27, 1829, according to Aranda, *Tratados del Perú*, vol. III, p. 246. This gives not only the text of the treaty but also the negotiations leading to it and the correspondence concerning ratifications and their exchange. The Colombian source says the ratifications were exchanged at Lima, agreeing as to month and year but not giving the day. The date which the latter gives for the approval of the Peruvian Congress does not agree with the date of the document as quoted by Aranda, nor with the date of the ratification by the Peruvian executive appearing in the document translated in the English source. Noboa, *Tratados del Ecuador*, vol. I, p. 227, agrees with Aranda. Noboa gives the entire treaty; and Wiese, *Tratados de Arbitramiento*, p. 23, gives the portion providing for arbitration.

² Article VI provides for a commission to fix the boundary, and Article X for one to liquidate the debt due from Peru to Colombia on account of the war for independence.

or to accommodate their differences, they shall mutually employ every means of conciliation and adjustment which are becoming to two neighboring nations, united by ties of blood and the most intimate and cordial relations.

Declaration signed the same day and place

(1) The undersigned, Minister Plenipotentiary of the Republic of Colombia, on signing the treaty of peace this day happily concluded with the Republic of Peru, declares that, inasmuch as his government is bound to settle all differences that may arise between the two republics in virtue of the said treaty, by means of a just and impartial arbiter, he at once selects the Republic of Chile as the arbiter and conciliator for the said differences, trusting that it will cheerfully lend its aid to a work so important to the cause of America in general.

No. 8

BOLIVIA—PERU

*Provision for the arbitration of disputes which might arise out of the execution of this treaty of peace and friendship.—Signed at Arequipa, November 8, 1831*¹

ARTICLE XVIII

The claims that may be presented by each of the two states shall be acknowledged and liquidated by two Bolivian, and two Peruvian commissioners, nominated by their respective governments. Should those commissioners not agree upon the justice or legitimacy of any one or more of the claims, they shall abide by the decision of an arbitrator. Both governments readily nominate and recognize as such, the Government of the United States of North America, whose consent they will opportunely solicit.

¹ English: *British and Foreign State Papers*, vol. XIX, p. 1388.

Spanish: Salinas, *Tratados de Bolivia*, vol. II, p. 21.

Ratified by Bolivia, February 12, 1832; and by the Peruvian executive it was first provisionally ratified December 7, 1831, until the Congress should meet and approve it. After a slight modification in Article II it received congressional approval and was finally ratified by Peru, March 20, 1833. See Aranda, *Tratados del Perú*, vol. II, pp. 186, 204, for the provisional and final ratifications, each following a text of the treaty. Wiese, *Tratados de Arbitramiento*, p. 290, gives the text of Articles XX and XXI. The English source gives also the Spanish text; and both Spanish and English texts are found in de Martens, *Nouveau recueil*, vol. x, pp. 426-9.

ARTICLE XX

If any one or more of the articles contained in this treaty be infringed by either of the contracting parties, they shall apply to the power that guarantees them, to declare which of them has received the injury, which, in conjunction with the injured party, shall exact from the other due satisfaction or indemnification.

ARTICLE XXI

The contracting parties shall prevail upon the Government of Chile, or, in the event of its refusal, upon that of the United States of North America, or, failing the latter, upon that of any free European nation, to guarantee the fulfilment of all and each of the articles of the present treaty.

No. 9

ECUADOR—PERU

*Provision for general arbitration in a treaty of friendship and alliance.—
Signed at Lima, July 12, 1832*¹

ARTICLE VII

Should any disagreement arise between the State of Ecuador and the Peruvian Republic, every conciliatory means suggested by the strict union between them shall be employed for its friendly settlement, and in the unexpected case of the plenipotentiaries being unsuccessful in their endeavors to effect the same, the question shall be referred to another state for its arbitration.

¹ English: *British and Foreign State Papers*, vol. xx, p. 1313.

Spanish: Aranda, *Tratados del Perú*, vol. v, p. 16.

Ratified by Peru, December 27, 1832; and the ratifications were exchanged the same day, Ecuador having previously ratified it and the commercial treaty concluded the same day as this of friendship and alliance. See Aranda, *op. cit.*, vol. v, pp. 18, 25, 995, and 996. Wiesse, *Tratados de Arbitramiento*, p. 25, gives the arbitration clause. The English source contains also a Spanish text.

No. 10

ECUADOR—NEW GRANADA (COLOMBIA)—VENEZUELA

*Provision for arbitration of disputes that might arise in the execution of this convention for the liquidation and collection of Colombian claims.—Signed at Bogotá, November 16, 1838*¹

The plenipotentiaries of New Granada, Ecuador, and Venezuela assembled with the object of agreeing upon and stipulating the necessary means for liquidating and settling the pecuniary claims of the former Republic of Colombia to which Article 26 of the convention of December 23, 1834 refers, having examined the powers conferred on them by their respective governments conformably with Article 27 of the same convention and finding them sufficient and in due form, have agreed upon the following articles:

ARTICLE I

The liquidation of the undermentioned assets and the demand for their payment are entrusted to and placed in the hands of the ministers or agents of the three republics residing in London.

First, the £402,099. 10s. 3d. sterling, being the amount of the balance due from the firm of B. A. Goldschmidt and Company as the bankers of Colombia in London together with the corresponding interest thereon.

Secondly, the sum total resulting from such objections, with explanations and remarks, as were made by Mr. Manuel José Hurtado, Minister in London of the aforesaid republic, to items in the account presented by Messrs. Herring, Graham, and Powles as negotiators of the loan of 1822, for the payment of which items with interest they bound themselves by the fourth article of the contract of April 1, 1824.

Thirdly, the £300 sterling advanced by the said Señor Hurtado for the construction of a coining machine which was never sent out to Colombia;

Fourthly, whatsoever other amounts are found to the credit of that

¹ Spanish: Noboa, *Tratados del Ecuador*, vol. II, p. 141.

Execution ordered by the executive power of New Granada, July 1, 1839, previous notice having been received of its approval by the three contracting parties. See *Tratados Públicos de Colombia*, vol. II (1884), p. 34, in a note following the text of the treaty.

It should be noticed that this is not strictly an international arbitration; but the provision is for the arbitration of disputes that might arise between the contracting nations and their creditors. It is, however, an international recognition of the principle of arbitration. There is an imperfect English translation in *British and Foreign State Papers*, vol. XXVIII, p. 235.

republic in Europe by reason of contracts entered into by its agents or for any other cause.

ARTICLE II

In the liquidation of the aforementioned credits and the demand for payment the three ministers shall proceed in concert, or two of them only if one should fail to be present from any cause whatever, and in the case of one only remaining he shall act alone. For that purpose the governments of New Granada, Ecuador, and Venezuela shall authorize them in the manner most suitable to their national interest not only to have recourse to judicial proceedings but also to submit these matters to the decision of legal arbitrators or to that of friendly umpires and to enter into adjustments and compromises with the debtors and also to take in payment for either the whole or part of their debts bonds of the Colombian foreign debt at their current value.

No. 11

MEXICO—UNITED STATES

Convention for the arbitration of claims of citizens of the latter against the government of the former. Signed at Washington, April 11, 1839¹

Whereas a convention for the adjustment of claims of citizens of the United States upon the Government of the Mexican Republic was concluded and signed at Washington on the 10th day of September, 1838, which convention was not ratified on the part of the Mexican Government, on the alleged ground that the consent of His Majesty the King of Prussia to provide an arbitrator to act in the case provided by said convention could not be obtained;

And whereas the parties to said convention are still, and equally, desirous of terminating the discussions which have taken place between them in respect to said claims, arising from injuries to the persons and property of citizens of the United States by Mexican authorities, in a manner equally advantageous to the citizens of the United States, by whom said injuries have been sustained, and more convenient to Mexico than that provided by said convention:

¹ English: Malley, *Treaties and Comventions of the United States*, vol. 1, p. 1101.

Spanish: *Tratado y Convención Conclusion y Ratificación por la República Mexicana* (1838), p. 121. On p. 121 is an English copy also. Ratified by Mexico, January 11, 1840, and by the United States, April 6, 1840, and ratifications exchanged, April 7, 1840.

The President of the United States has named for this purpose, and furnished with full powers, John Forsyth, Secretary of State of the said United States; and the President of the Mexican Republic has named His Excellency Señor Don Francisco Pizarro Martinez, accredited as Envoy Extraordinary and Minister Plenipotentiary of the Mexican Republic to the United States, and has furnished him with full powers for the same purpose;

And the said plenipotentiaries have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that all claims of citizens of the United States upon the Mexican Government, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State or to the diplomatic agent of the United States at Mexico until the signature of this convention, shall be referred to four commissioners, who shall form a board, and be appointed in the following manner, namely: two commissioners shall be appointed by the President of the United States, by and with the advice and consent of the Senate thereof, and two commissioners by the President of the Mexican Republic. The said commissioners, so appointed, shall be sworn impartially to examine and decide upon the said claims according to such evidence as shall be laid before them on the part of the United States and the Mexican Republic respectively.

ARTICLE II

The said board shall have two secretaries, versed in the English and Spanish languages; one to be appointed by the President of the United States, by and with the advice and consent of the Senate thereof, and the other by the President of the Mexican Republic. And the said secretaries shall be sworn faithfully to discharge their duty in that capacity.

ARTICLE III

The said board shall meet in the city of Washington within three months after the exchange of the ratifications of this convention, and within eighteen months from the time of its meeting shall terminate its duties. The Secretary of State of the United States shall, immediately after the exchange of the ratifications of this convention, give notice of the time of the meeting of the said board, to be published in two newspapers in Washington, and in such other papers as he may think proper.

ARTICLE IV

All documents which now are in, or hereafter, during the continuance of the commission constituted by this convention, may come into the possession of the Department of State of the United States, in relation to the aforesaid claims, shall be delivered to the board. The Mexican Government shall furnish all such documents and explanations as may be in their possession, for the adjustment of the said claims according to the principles of justice, the law of nations, and the stipulations of the treaty of amity and commerce between the United States and Mexico of the 8th of April, 1823; the said documents to be specified when demanded at the instance of the said commissioners.

ARTICLE V

The said commissioners shall, by a report under their hands and seals, decide upon the justice of the said claims and the amount of compensation, if any, due from the Mexican Government in each case.

ARTICLE VI

It is agreed that if it should not be convenient for the Mexican Government to pay at once the amount so found due, it shall be at liberty, immediately after the decision in the several cases shall have taken place, to issue treasury notes, receivable at the maritime custom-houses of the republic in payment of any duties which may be due or imposed at said custom-houses upon goods entered for importation or exportation, said treasury notes to bear interest at the rate of eight per centum per annum from the date of the award on the claim in payment of which said treasury notes shall have been issued until that of their receipt at the Mexican custom-houses. But as the presentation and receipt of said treasury notes at said custom-houses in large amounts might be inconvenient to the Mexican Government, it is further agreed that in such case, the obligation of said government to receive them in payment of duties, as above stated, may be limited to one-half the amount of said duties.

ARTICLE VII

It is further agreed that in the event of the commissioners differing in relation to the aforesaid claims, they shall, jointly or severally, draw up a report, stating in detail, the points on which they differ, and the grounds upon which their respective opinions have been formed. And it is agreed that the said report or reports, with authen-

ticated copies of all documents upon which they may be founded, shall be referred to the decision of His Majesty the King of Prussia. But as the documents relating to the aforesaid claims are so voluminous that it can not be expected His Prussian Majesty would be willing or able personally to investigate them, it is agreed that he shall appoint a person to act as an arbiter in his behalf; that the person so appointed shall proceed to Washington; that his travelling expenses to that city and from thence on his return to his place of residence in Prussia, shall be defrayed, one-half by the United States and one-half by the Mexican Republic; and that he shall receive as a compensation for his services a sum equal to one-half the compensation that may be allowed by the United States to one of the commissioners to be appointed by them, added to one-half the compensation that may be allowed by the Mexican Government to one of the commissioners to be appointed by it. And the compensation of such arbiter shall be paid, one-half by the United States and one-half by the Mexican Government.

ARTICLE VIII

Immediately after the signature of this convention, the plenipotentiaries of the contracting parties (both being thereunto competently authorized) shall, by a joint note, addressed to the Minister for Foreign Affairs of His Majesty the King of Prussia, to be delivered by the Minister of the United States at Berlin, invite the said monarch to appoint an umpire to act in his behalf in the manner above mentioned, in case this convention shall be ratified respectively by the governments of the United States and Mexico.

ARTICLE IX

It is agreed that, in the event of His Prussian Majesty's declining to appoint an umpire to act in his behalf, as aforesaid, the contracting parties, on being informed thereof, shall, without delay, invite Her Britannic Majesty, and in case of her declining, His Majesty the King of the Netherlands, to appoint an umpire to act in their behalf, respectively, as above provided.

ARTICLE X

And the contracting parties further engage to consider the decision of such umpire to be final and conclusive on all the matters so referred.

ARTICLE XI

For any sums of money which the umpire shall find due to citizens of the United States by the Mexican Government, Treasury notes shall be issued in the manner aforementioned.

ARTICLE XII

And the United States agree forever to exonerate the Mexican Government from any further accountability for claims which shall either be rejected by the board or the arbiter aforesaid, or which, being allowed by either, shall be provided for by the said government in the manner before mentioned.

ARTICLE XIII

And it is agreed that each government shall provide compensation for the commissioners and secretary to be appointed by it; and that the contingent expenses of the board shall be defrayed, one moiety by the United States and one moiety by the Mexican Republic.

ARTICLE XIV

This convention shall be ratified, and the ratifications shall be exchanged at Washington within twelve months from the signature hereof, or sooner if possible.

In faith whereof we, the plenipotentiaries of the United States of America and of the Mexican Republic, have signed and sealed these presents.

Done in the city of Washington on the eleventh day of April, in the year of our Lord one thousand eight hundred and thirty-nine, in the sixty-third year of the independence of the United States of America, and the nineteenth of that of the Mexican Republic.
[Here follow signatures.]

No. 12

GUATEMALA—SALVADOR

*Provisions for general arbitration in a treaty of peace and friendship.—
Signed at San Vicente, July 4, 1839*¹

ARTICLE I

The Governments of Guatemala and Salvador shall preserve the peace, friendship, and brotherly relations between the two states which at present happily exist.

ARTICLE II

The contracting states guarantee to each other the integrity of their respective territories, their independence, sovereignty, and liberty, and declare their adherence to the principle of non-intervention in the internal affairs of each other.

ARTICLE III

They likewise agree that they will not declare war nor commit any positive act of hostility against each other, for any cause or pretext, not even for the alleged violation of the whole or a part of this treaty, without having previously presented claims and asked due explanations of the offense, grievance, or damage that may give rise to the complaint; and in the unexpected case that the explanations asked should be denied or should not satisfy the offended state, they shall jointly appoint another state as mediator. Should either party fail to comply with what is herein stipulated, it shall be answerable to the other for all the expenses, damages, and losses that the war may occasion to the same.

ARTICLE IV

As it might happen that one of the contracting states would be engaged in an offensive or defensive war against one or more of the other states of the union, the other contracting state shall observe absolute neutrality and in no case will it unite with nor lend aid of any kind to the state or states that are enemies (of Guatemala or Salvador); but it shall be under strict obligation to mediate and endeavor to reconcile the belligerents by means of a pacific and friendly intervention in their differences. For this reason they bind themselves recipro-

¹ Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. I (1892), p. 560.

Ratified by Guatemala, August 9, 1839, having previously received the approbation of Salvador, see *ibid.*, pp. 563, 564.

cally to give information to each other without delay of every hostile movement and of all movements that may be produced thereby.

ARTICLE VIII

The contracting parties, faithful to their principles, declare that they will respect and sustain the future convention of states; and they acknowledge that it has the power to establish with perfect freedom the new pact of union, to mediate in differences that may arise among the states, and to decide in a friendly manner the questions and affairs that the same states may submit willingly to its deliberation. Likewise they agree to join their forces against any other, or against any faction, that may attempt to oppose or obstruct the meeting of that body.

No. 13

GUATEMALA—NICARAGUA

*Treaty of friendship, alliance, mediation, and general arbitration.—
Signed at León, July 24, 1839*¹

The Governments of Guatemala and Nicaragua, desiring to insure the restoration on a firm basis of peace between the latter and the Government of Salvador, in which the former has interested itself by mediating to bring about a cessation of hostilities, and wishing to confirm and strengthen the bonds of friendship and alliance in order to maintain the rights of all three powers, and for the purpose of arranging a plan for the early meeting of the convention of states to reorganize the republic, have commissioned, the former, citizen Gerónimo Carcache, and the latter, citizen attorney Pablo Buitrago, who having exchanged their powers and found them in due form, have agreed to the following articles:

ARTICLE I

The States of Guatemala and Nicaragua having declared themselves independent, the former on the seventeenth [of April] of the

¹ Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. 1 (1892), p. 539.

The provisions for arbitration are contained in Articles VII, VIII, and IX; but the entire convention is printed since it is an interesting and elaborate attempt to substitute peaceable for warlike means of settling disputes. The fact that little or nothing came of it minimizes its importance; but does not entirely divest it of value. The text is also found in Bonilla, *Tratados Internacionales de Nicaragua* (1909), p. 39; and Articles VIII and IX are in *Tratados de Arbitraje de Nicaragua*, p. 105.

present year and the latter on the thirtieth of April of the preceding year, reciprocally recognize each other's sovereignty, independence and absolute liberty, and they concede to the other states the same rights.

ARTICLE II

The contracting states guarantee the integrity of their respective territories, and proclaim the principle of non-intervention in the internal affairs of each other: they declare themselves to be united in perpetual friendship and alliance, in order to secure for themselves the full enjoyment of their sacred rights, and to be under the obligation of uniting their forces to repel any invasion of territory of the one or the other, or to enforce order on any interior faction, which in disobedience to the existing constitutional government shall threaten its dissolution, the one suffering having requested the fulfilment of the obligation.

ARTICLE III

If unfortunately it should happen that any faction in [either of] the respective states should take possession of its government, should subvert the administrative order, or cause a public disturbance, the contracting states stipulate that upon receiving knowledge or an official report of the fact, they will unite their forces and urge the other states to join in order to reestablish constitutional order in the one that shall have been oppressed by said faction, until they leave the legitimate authorities in full liberty.

ARTICLE IV

The Government of Nicaragua admits the mediation of that of Guatemala, thereby confirming the act of cessation of war with the State of Salvador decreed by its chambers on the eighteenth of last June and offers to the last mentioned state its sincere friendship and alliance for the future. The Government of Guatemala accepts the friendship and alliance here stipulated, and binds itself to try to induce the State of Salvador to abide by the provisions of this article thereby establishing more harmonious relations between the two governments.

ARTICLE V

Consequently the two contracting states recognize the integrity of the territory of Salvador with the reincorporation of the so-called federal district, offering mutually to respect and cause the other states to respect its inviolability in conformity with the law of nations.

ARTICLE VI

In view whereof they shall maintain their forces within their respective territories for the purpose of thus preserving public order.

ARTICLE VII

Guatemala binds itself to interpose all its influence and mediation to the end that the State of Salvador may accept what was approved by the Chambers of Nicaragua in the decree of the tenth of the present month respecting Article VI of the treaty entered into between Honduras and Salvador on the fifth of last June, namely, that damages occasioned to private parties shall be submitted to the decision of the convention.

ARTICLE VIII

The contracting states, faithful to the fraternal sentiments which they profess, bind themselves in the most positive manner, not to declare war under any pretext, cause or motive that may present itself under whatever form it may appear, but rather just claims must first be presented, wherein the one thinking itself offended shall set forth the offense or damages which it may have suffered from the other, and in case the explanations asked shall be denied or shall be unsatisfactory, they must necessarily submit the dispute to the decision of the convention, or name jointly a mediating state which may determine, arrange and settle the differences that shall have occurred. If what is prescribed in this article is not complied with, the offender shall be answerable for all the expenses and damages occasioned to the one sustaining them.

ARTICLE IX

If either of the contracting states should believe itself offended by any of the other states, it binds itself not to take up arms against the offender but to ask proper explanations; and if these shall be denied or appear insufficient, the offended state will make known the whole matter to its ally in order that the latter may interpose its pacific mediation by all the means that it may have within its reach, so that the points of controversy may be arranged and settled. If nevertheless this proceeding should not be sufficient to put an end to the dispute, the two allies shall urge the offending state to submit the matter to the judgment of the convention or of some other state which they shall designate as arbitrator; and if this measure should not be accepted by the offender, that state will be considered an enemy of peace in general.

ARTICLE X

If at the time of the ratification of this convention, either of the contracting states should be actually engaged in hostilities with any other state, they agree and promise solemnly to join their forces and resources in order to sustain each other's sovereignty, the integrity of their respective territories, and the generally stipulated principle of non-intervention in the internal affairs of one another; and furthermore they bind themselves to urge and require from the other states who may be allies of the contracting powers that they likewise may join their forces and resources for the purpose of maintaining general peace among the states upon the foundations laid down and recognized in this article.

ARTICLE XI

The great general desire among the states being the organization of the republic under a free, satisfactory and successful system, the contracting governments bind themselves to cooperate in whatever way they can in the assembling of the convention of states, in which each shall be represented by commissioners who shall negotiate together as agents of sovereign and independent peoples, and in that capacity establish a general compact which shall contain ample stipulations adapted to the service and welfare of the peoples, without regard to previous limitations. The two contracting powers likewise offer to remove the obstacles to such a laudable design that may exist in their respective states, and also to ask the other states to do the same, if perchance such obstacles should be found: also, in case any state allows such a hindrance to exist, they agree energetically to demand its removal, and if in spite of earnest solicitation the state in question should disregard the solicitude shown by either of the contracting powers, they promise and agree to unite their entire resources and request the other states to do the same in order to remove by whatever means are necessary the obstacle presented by the state on which the demand may have been made.

ARTICLE XII

If, as is not to be expected, some one of the states should oppose the meeting of the convention, or the sovereignty of the said states, attempting to disparage the latter or by overt acts to impede the former, the two allies, or either alone, have the right to unite with the rest of the states in order to make the dissenting state forego its opposition,

and to attain the purpose for which the meeting of the conventional body is intended.

ARTICLE XIII

The State of Nicaragua, in conformity with the decree issued by its Chambers on the tenth of the present month, with reference to the treaty entered into between Honduras and Salvador on the fifth of last June, chooses for the meeting of the convention the city of Tegucigalpa, or any other place within the same State of Honduras that its government assigns; and the commissioner of the Government of Guatemala in view of the fact that, although his own government stipulated in the treaty entered into with Honduras on the eleventh of May that it should be the place on which the majority of the states might settle, it has since agreed with Salvador on the fifth of last June that it should be the city of Santa Ana, in conformity with his instructions reserves this treaty in this particular for the decision of his government in the ratifications referred to below.

ARTICLE XIV

The contracting states likewise agree that the meeting of the convention shall take place from the fifteenth to the thirty-first of next August, and that if it should not be possible then, it may be held at any time in the month of September at the latest.

ARTICLE XV

The two contracting states, being desirous that this national body which is destined to form the bond of union of all, shall have the respectability, liberty and security which it is proper it might have, agree that for this purpose a force of one hundred and fifty men shall guard it under the orders of its President, and in the proportion of twenty-five for each state; which provision shall take effect when the rest of the states may agree to it.

ARTICLE XVI

As the new treaty should provide for all the objects that have been prescribed in this convention, the latter will cease to have effect as soon as the former shall be sanctioned and published in all the states.

ARTICLE XVII

This treaty shall be ratified by the assemblies of both states, and the ratifications exchanged by their respective governments

as soon as it shall be possible owing to the distances that separate them.

Signed at the city of León, on the twenty-fourth day of the month of July, one thousand eight hundred and thirty-nine.
[Here follow signatures.]

No. 14

BOLIVIA—PERU

*Provision for arbitration of pending disputes, contained in a preliminary convention.—Signed at Lima, April 19, 1840*¹

ARTICLE VI

As an unequivocal proof that the two high contracting parties wish to establish in a lasting manner their mutual relations, in conformity with universal justice and equity, they agree to submit to the enlightened Government of New Granada, whose consent they shall ask, the decision of the questions pending between the two republics, which refer to the intervention of 1835 and later events; both contracting parties binding themselves to ask from said Government of New Granada a declaration of guaranty, in order to insure the carrying out of the arbitral decisions.

ARTICLE VII

In case the Government of New Granada shall not consent to the arbitration and guaranty, or to one of these two acts, the services of some other American government shall be asked.

ARTICLE VIII

The arbitral decisions referred to in the foregoing articles shall be complied with to the letter; and until they shall be carried into effect, the definitive treaties of peace, friendship and commerce, which the two republics now bind themselves to enter into, shall not be signed, unless the two high contracting parties should agree to enter into such treaties at an earlier time.

¹ Spanish: Aranda, *Tratados del Perú*, vol. II, p. 265.

Ratified by Peru April 30, 1840; ratified by Bolivia, May 8, 1840; ratifications exchanged at Desaguadero, June 30, 1840. This was two days after the expiration of the time stipulated in the convention for the exchange; but power had been given in advance to extend the time if it should be found necessary.

ARTICLE X

Peru being obliged to come to an understanding with Chile as to all the expenses of the War of the Restoration, and having entered into an agreement in Lima on October 12, 1883, in regard thereto, the Republic of Bolivia binds itself to pay to that of Peru one fourth of all the expenses incurred by reason of said war which were duly liquidated between Peru and Chile, Bolivia becoming thereby released from all liability in regard to said expenses; but should the Government of New Granada, to whom the question has been submitted as to whether or not Bolivia should pay one third instead of the one fourth above stipulated of the aforesaid expenses, decide that the third part of said expenses should be paid, then Bolivia binds itself to pay also the resulting balance in faithful compliance with the decision of the arbitrator.

No. 15

NEW GRANADA (COLOMBIA)—VENEZUELA

*Provision for general arbitration, in a treaty of friendship, commerce, and navigation.—Signed at Carácas, July 23, 1842*¹

ARTICLE IV

If at any time the relations of friendship and mutual good-will which now exist between the two republics and which it is the object of the present treaty to perpetuate, should unfortunately be interrupted, the high contracting parties solemnly engage never to appeal to the lamentable recourse of arms, before they have exhausted all the means of negotiation, requiring from, and giving to, each other explanations upon the grievances alleged to have been received, or upon the differences that may have arisen between them; nor until due satisfaction shall have been positively denied, after a friendly and neutral power, chosen as umpire, shall, in view of the allegations or the declarations of motives as well as the replies and rejoinders, have decided upon the justice of the claims.

¹ English: *British and Foreign State Papers*, vol. XXXIII, p. 820.

Spanish: *Tratados Públicos de Colombia*, vol. II (1884), p. 89. Wiesse, *Tratados de Arbitramiento*, p. 29, gives Article IV.

Ratifications exchanged at Bogotá, November 7, 1844.

No. 16

GUATEMALA—HONDURAS

Provision for general arbitration, contained in a convention of friendship and alliance.—Signed at Guatemala, July 19, 1845 ¹

ARTICLE VIII

In case there should occur any cause of disagreement between the two contracting states, the one offended shall at three different times claim due satisfaction from the offender. If thereby the cause of disagreement should not be removed, each of the states shall propose three persons and of these the other shall select one, and upon the meeting of the two elected they shall decide the question, after examination of the respective documents and allegations. If the arbitrators shall agree among themselves, the contending states shall have to submit to their decision; but in case of disagreement they shall select a third by lot among the others that may have been proposed by the two states, and the decision of this third arbitrator shall be binding on the said states, even in case one of the parties, or both jointly, should consider such decision unjust. In such event the first of the contracting states to take up arms against the decision shall be responsible for the resulting damages and injuries and its contention shall be considered unjust.

ARTICLE IX

The State of Guatemala declares itself neutral in the contest which unfortunately has taken place between the States of Salvador and Honduras, and it constitutes itself a mediator between them, in order to reestablish their good harmony and the general peace which is so necessarily demanded by the circumstances existing in Central America. This neutrality shall cease in case one of the states should accept a just settlement and the other should refuse to abide by conciliatory and honorable settlement, because Guatemala will then be

¹ Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. 1 (1892), p. 516.

Ratified by Honduras, August 16, 1845; and by Guatemala, October 3, 1845.

The general arbitration provision is contained in Article VIII. Article IX is printed as an interesting provision for the mediation of one of the contracting powers in an existing dispute of the other with a third, strengthened by a threat of the mediator to enter into alliance with that one of the contending states which should accept the mediation against either one that should reject it. This virtually changes the nominal mediator into a self appointed arbitrator with authority to enforce the award. Wiesse, *Tratados de Arbitramento*, p. 30, prints Article VIII.

free to defend the just cause, after having made a solemn declaration in regard thereto. Guatemala will always proceed in the same manner whenever armed contentions may arise between her allies.

No. 17

COSTA RICA—SALVADOR

*Provision for general arbitration, in a treaty of peace, friendship, and alliance.—Signed at San José, December 10, 1845*¹

ARTICLE V

In case there should exist a clear and recognized cause of complaint between the contracting states (which God forbid), reparation for the injury which gave rise to it shall be demanded a first, second, and third time in an effort to effect the restoration of the harmony and good understanding which they have promised and do now promise each other to maintain. If this should not be attained both governments shall acquiesce in the impartial decision of the government of one of the states of the Central American union, which they may select by common accord. No appeal may be made from this decision, to which they shall conform even though it might appear not to be just. At all events, justice shall be considered as being against the first to take up arms, and that one shall be responsible for the damages and wrongs that may be occasioned.

¹ *Tratados Internacionales de Costa Rica* (1892), p. 2.

Ratified by Salvador, March 10, 1846, according to *Tratados del Salvador* (1884), p. 56, where the text is also found; and ratified by Costa Rica, July 24, 1846, according to Mr. Luis Anderson's manuscript study of the archives of the Costa Rican foreign office. Wiese, *Tratados de Arbitramiento*, p. 31, also contains the text of Article V.

No. 18

MEXICO—UNITED STATES

*Provision for general arbitration, in a treaty of peace, friendship, limits, and definitive settlement.—Signed at Guadalupe Hidalgo, February 2, 1848*¹

ARTICLE XXI

If unhappily any disagreement should hereafter arise between the governments of the two republics, whether with respect to the interpretation of any stipulation in this treaty, or with respect to any other particular concerning the political or commercial relations of the two nations, the said governments, in the name of those nations, do promise to each other that they will endeavor, in the most sincere and earnest manner, to settle the differences so arising, and to preserve the state of peace and friendship in which the two countries are now placing themselves, using, for this end, mutual representations and pacific negotiations. And if, by these means, they should not be enabled to come to an agreement, a resort shall not, on this account, be had to reprisals, aggression, or hostility of any kind, by the one republic against the other, until the government of that which deems itself aggrieved shall have maturely considered, in the spirit of peace and good neighborhood, whether it would not be better that such difference should be settled by the arbitration of commissioners appointed on each side, or by that of a friendly nation. And should such course be proposed by either party, it shall be acceded to by the other, unless deemed by it altogether incompatible with the nature of the difference, or the circumstances of the case.

¹ English: Malloy, *Treaties and Conventions of the United States*, vol. I, p. 1107.

Spanish: *Tratados y Convenios Concluidos y Ratificados por México* (1878), p. 205.

Ratified by the United States, March 16, 1848; and by Mexico, May 30, 1848; and ratifications exchanged, May 30, 1848.

It should be noticed that this is not a positive agreement to arbitrate, but a promise that in case pacific negotiation should fail the aggrieved party would not begin hostilities until it had maturely considered whether it would not be better to resort to arbitration; and if arbitration be proposed by one it should be accepted by the other unless deemed incompatible with the nature of the difference or the circumstances of the case, which makes it of little real value. The English text follows the Spanish in the Spanish source cited.

No. 19

BOLIVIA—PERU

*Provision for arbitration of a dispute concerning the former's obligation to the latter for aid in the war for independence from Spain, contained in a treaty of peace and commerce.—Signed at Sucre, October 10, 1848*¹

ARTICLE II

There having been pending since the year 1825 the question raised by the Government of Peru whether Bolivia should assume some portion of the expenses incurred by the Peruvian Republic during the campaigns of 1823 and 1824 with the object of attaining the independence of both; and Bolivia not having acquiesced in that claim, stating that on its part it had made great expenditures in order to maintain the independent armies which fought at Huaquí, Vilcapuquio and Viloma, and the Peruvian army which in 1825 took possession, under command of General Santa Cruz, of the departments of La Paz, Oruro and Cochabamba; now the two contracting parties agree to appoint an arbitrator to settle such question, and in such event promise to acquiesce in the decision of the arbitrator, which shall be the Government of New Granada or of Venezuela. The two parties shall jointly negotiate to the end that one of the said governments may perform this service on behalf of peace between the two contracting republics.

¹ Spanish: Aranda, *Tratados del Perú*, vol. II, p. 295.

Ratifications were exchanged at Oruro, November 7, 1849. On November 3, 1847, a treaty had been signed at Arequipa in which the second article was identical with this but in which there were slight changes in some of the other articles. When on December 30, 1847, the meeting occurred at which the ratifications were to be exchanged the Bolivian representative refused to make the exchange because certain modifications had been made by Peru when that government ratified it. An agreement was then signed extending the time for an additional sixty days. But that also expired without the exchange being effected. New negotiations resulted in the signature of this treaty of October 10, 1848, including the treaty of November 3, 1847, and the subsequent modifications. The period of eighty days allowed in it for the exchange expired without the exchange being effected; and on March 1, 1849, a new convention was signed at Sucre extending the time for eighty days more. This also having expired before the exchange, the representatives of the two governments adopted the expedient of effecting the exchange after the expiration but dating it back. The Peruvian Government refused to recognize this as valid; and a new convention postponed the date again. Before the expiration of this period the exchange was effected as stated above. In his proclamation of December 24, 1849, declaring the treaty in force, the President of Peru spoke of it as the treaty of Arequipa of November 3, 1847, with the modifications made by the congresses and governments of the two nations. See Aranda, *op. cit.*, pp. 293, 294, 301, 302.

No. 20

COSTA RICA—HONDURAS

*Provision for general arbitration, in a treaty of peace, friendship, and commerce.—Signed at San José, January 4, 1850*¹

ARTICLE XV

The two republics bind themselves never to make war against each other, nor will either give assistance in attacks that may be made on the other. If differences should arise they will always settle them by arbitration; and only in case one of them will not abide by such arbitration, will the other be permitted to make use of arms.

No. 21

ECUADOR—PERU

*Provision for the arbitration of a dispute concerning the ownership of certain vessels and arms, contained in a treaty of peace and friendship.—Signed at Lima, March 16, 1853*²

ARTICLE V

The disposition of the vessels, arms, ammunition and other warlike stores which, being part of the fleet of D. Juan José Flores, sought the shelter of the port of Paita, and the determination of their ownership shall be submitted to the arbitral decision of the Government of Chile, both contracting parties having pledged themselves to abide by the decision of the latter.

¹ Spanish: *Tratados Internacionales de Costa Rica*, vol. I (1892), p. 118.

No certain evidence is at hand whether this treaty was or was not ratified. The text of this article is printed in Wiese, *Tratados de Arbitramiento*, p. 36. It is also contained in the manuscript study of the archives of the Costa Rican foreign office sent to the Endowment by Mr. Luis Anderson. But neither of these makes any comment concerning ratification, although both do in most other cases.

² Spanish: Aranda, *Tratados del Perú*, vol. v, p. 132.

Ratified by the Peruvian executive, April 8, 1853. A footnote says it was not submitted to the Congress of Peru. The text in Spanish of this article is quoted in La Fontaine, *Pasicristie internationale*, p. 588.

No. 22

MEXICO—UNITED STATES

*Provision for general arbitration, in a treaty relative to the boundary and transit across the Isthmus of Tehuantepec.—Signed at Mexico City, December 30, 1853*¹

ARTICLE VII

Should there at any future period (which God forbid) occur any disagreements between the two nations which might lead to a rupture of their relations and reciprocal peace, they bind themselves in like manner to procure by every possible method the adjustment of every difference, and should they still in this manner not succeed, never will they proceed to a declaration of war, without having previously paid attention to what has been set forth in Article 21 of the Treaty of Guadalupe for similar cases; which article as well as the 22d, is here reaffirmed.

No. 23

COSTA RICA—NICARAGUA

*Provision for the arbitration of existing disputes concerning boundaries, navigation, and sovereignty over certain regions, in a preliminary convention of peace.—Signed at Washington, January 28, 1854*²

ARTICLE I

The Governments of the Republics of Costa Rica and Nicaragua bind themselves reciprocally to put an end as soon as possible to the differences that unfortunately have existed and still exist between said republics with regard to the sovereignty over certain territories and to certain rights relative to interior navigation, either through a direct arrangement between the interested parties without the intervention of a third, or by submitting themselves to the decision of a friendly nation.

¹ English: Malloy, *Treaties and Conventions of the United States*, vol. I, p. 1124.

Spanish: *Tratados y Convenciones Concluidos y Ratificados por México* (1878), p. 262.

Ratified by Mexico, May 30, 1854; by the United States, June 29, 1854; and ratifications exchanged at Washington, June 30, 1854. For Article XXI of the treaty of Guadalupe Hidalgo, here referred to, see the treaty of February 2, 1848, No. 18, *ante*, p. 28. The English text follows the Spanish in the Spanish source cited.

² Spanish: *Tratados Internacionales de Costa Rica*, vol. II (1893), p. 137.

No evidence is at hand whether this was or was not ratified. See similar provisions in subsequent treaties between the same nations in 1857, 1858, and 1861. The text of the articles here quoted is found also in *Tratados de Arbitraje de Nicaragua*, p. 121.

ARTICLE II

In case the negotiations which are actually pending at San José between the Government of Costa Rica and the plenipotentiary of Nicaragua should unfortunately not attain the end which both parties intend, it is stipulated that immediately after the exchange of the ratifications of this convention, the Republics of Costa Rica and Nicaragua shall submit the decision of all and of every one of the questions pending between the two governments, with regard to boundaries, interior navigation, and sovereignty of any territories, rivers, and lakes in dispute, without any reservation whatsoever, to the arbitral decision of His Majesty the Emperor of the French people or to any other government that either of the contracting parties may deem convenient to designate at the time of the exchange of the ratifications of this convention.

ARTICLE III

It is likewise agreed that immediately after the consent of the arbitrator that may be chosen shall have been obtained, the two republics shall confer on him full powers, so that he may decide, as he may deem best, in conformity with the principles of equity and justice, all the questions pending between the said governments, after examination of the reports and documents that each of the interested parties shall respectively present to support its rights through its diplomatic agents or in any other manner, it being understood that if either of the parties should fail to submit its evidence, within the period of one year, which shall not be subject to extension, that fact shall not delay the decision of the arbitrator, which he may base solely on the information submitted by the other party.

No. 24

ARGENTINA—CHILE

*Provision for the arbitration of boundary disputes, in a treaty of peace, friendship, commerce, and navigation.—Signed at Santiago de Chile, August 30, 1855*¹

ARTICLE XXXIX

Both contracting parties recognize as the limits of their respective territories those which they possessed as such at the time of their separation from the Spanish dominion in 1810, and they agree to reserve the questions which have arisen, or may hereafter arise upon this matter, in order to discuss them pacifically and amicably afterwards, without ever having recourse to violent measures, and in case a complete settlement should not be arrived at, to submit the decision to the arbitration of a friendly nation.

No. 25

GUATEMALA—HONDURAS

*Provision for general arbitration, in a treaty of peace and friendship.—Signed at Guatemala, February 13, 1856*²

ARTICLE X

In consequence of this treaty, all disagreements existing before its conclusion are terminated, and they shall be considered as not having existed. Both republics, not only declare their complete forgetfulness, but agree that no claim may be made for damages and losses, or the appropriation of implements of war during the hostilities, and they also bind themselves to aid each other whenever their independence may so demand. Furthermore, they establish as a permanent rule of conduct, that in no event will they levy war against each other, nor consent that any hostile operations may be

¹ English: *British and Foreign State Papers*, vol. XLIX, p. 1212.

Spanish: *Tratados de la Argentina*, vol. VII, p. 45.

Ratified by Argentina, January 31, 1856; by Chile, April 5, 1856; and ratifications exchanged at Santiago, April 29, 1856. The text is also in *Tratados de Chile*, vol. I, p. 249.

For other arbitration arrangements leading to the settlement of this boundary dispute see Nos. 82, 113, 144, and 149, *post*, pp. 122, 179, 246, and 256.

² Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. I (1892), p. 522.

Ratified by Guatemala, April 5, 1856. The substance of the arbitral provision, though not the exact text, is in Wiesse, *Tratados de Arbitramiento*, p. 38.

carried on or offense be given within the territory of one against the other under any pretext or motive; and in case any differences should occur, they will make to each other adequate explanations, and have recourse, if they should not be able to agree, to the arbitration of some government of a friendly nation.

No. 26

ECUADOR—NEW GRANADA (COLOMBIA)

*Provision for general arbitration, in a treaty of friendship, commerce, and navigation.—Signed at Bogotá, July 9, 1856*¹

ARTICLE III

If, unfortunately, at any time the relations of friendship and good understanding, which now happily exist between the two republics and which it is the object of the present treaty to render durable, should be interrupted, the contracting parties solemnly pledge themselves not to appeal to the grievous recourse of arms before exhausting that of negotiation, explanations being required and given respecting the grievances which one party may consider it has received from the other, or respecting the differences which may arise between them; and not until the reparation shall have been expressly refused, which a neutral and friendly power, selected as arbitrator, has, in view of the allegations or explanations of motives, and the replies of both parties to the dispute, declared to be due.

¹ English: *British and Foreign State Papers*, vol. XLVII, p. 1271.

Spanish: *Tratados Públicos de Colombia* (1883), p. 28.

Ratifications exchanged at Quito, May 26, 1857. The text is also found in Noboa, *Tratados del Ecuador*, vol. II, p. 169.

No. 27

CHILE—COSTA RICA

Provision for general arbitration, in a treaty intended to establish a union of the Spanish American states and Brazil.—Signed at San José, June 20, 1857¹

ARTICLE XIX

In the unfortunate event that one of the high contracting parties should violate this treaty or those which may be entered into in consequence hereof, or any other treaty which may mutually unite any of them, it is hereby stipulated that the party, believing itself aggrieved, shall not order or authorize any acts of hostility or reprisal, nor shall it declare war without first presenting to the offending state a statement of the grounds of complaint supported by sufficient proofs or justification, demanding justice or satisfaction, or before said satisfaction has been denied or delayed without reason.

They bind themselves to follow the same procedure in the case of any other offense, injury, or damage inflicted or caused by one of the states to another, so that no acts of reprisal shall be executed nor hostilities be committed nor war declared without first giving a statement of the causes in order that satisfaction be given or justice done, and without first exhausting all peaceful means of settling their differences.

In order to remove all causes which may impair the good understanding and harmony which they ought to maintain between themselves, they likewise pledge themselves to the end that whatever be the reasons which any one of them may have to change the status of its relations—established by international acts of whatsoever kind—with another of the states, it shall not proceed to do so without having first communicated its decision to the other state and proposed

¹ Spanish: *Tratados Internacionales de Costa Rica*, vol. 1 (1892), p. 179.

Ratified by Costa Rica, October 28, 1857. No information is at hand whether it was or was not ratified by Chile. It does not appear in the collection of Chilean treaties frequently cited above; but that is not entirely conclusive evidence. It is not strictly an arbitration treaty, but rather provides for the automatic mediation of the proposed congress of plenipotentiaries and for its obligatory acceptance by the contesting states. It is really a league to enforce peace. A similar treaty between Costa Rica and Peru had been signed on January 31, preceding, which is printed on page 168 of the source here cited; but there is no evidence at hand whether it was or was not ratified by either party. The essential portions of both are included in Mr. Luis Anderson's manuscript study of the archives of the Costa Rican foreign office. Speaking of the one of January 31, he says it was modeled on one signed in Chile by representatives of Peru, Chile, and Ecuador, and another signed in Washington by representatives of Costa Rica, Peru, New Granada (Colombia), Mexico, Guatemala, Salvador, and Venezuela.

or communicated the basis on which those relations ought to be arranged thereafter.

ARTICLE XX

With the object of consolidating and strengthening the union, of developing the principles on which it is established, and of adopting the measures which are required for the execution of such of the stipulations of this treaty as make necessary further provisions, the high contracting parties agree each to appoint a plenipotentiary, and that said plenipotentiaries assembled in congress, shall represent all the states of the union for the purposes of this treaty.

The first meeting of the congress of plenipotentiaries shall be held three months after the exchange of the ratifications of this treaty, or before, if possible, and it shall continue to meet thereafter, at least once every three years.

It shall convene at the capitals of the contracting states in turn, following the order which may be decided upon at the first meeting.

ARTICLE XXI

The congress of plenipotentiaries shall have the right and sufficient authority to offer its mediation through the member or members within its body which it may designate whenever differences among the contracting states arise, and none of them may reject such mediation.

If, when such differences occur, the congress should not be in session, the government whose minister plenipotentiary has been its last President, shall call a meeting in order that the congress may designate the mediator. The same procedure shall be followed whenever any other circumstance requires that the congress of plenipotentiaries be convened.

ARTICLE XXII

In no case, and for no reason, may the congress take as a matter for discussion the internal disturbances, movements, and agitations of the several states of the union, nor shall it adopt any kind of measures to influence these movements, so that the independence of each state to organize and govern itself as it may consider proper be fully respected, and may not be opposed directly, or indirectly by any acts, resolutions, or statements of congress.

ARTICLE XXIII

The present treaty shall be communicated immediately after the exchange of its ratifications by the governments of the contracting republics to the other Spanish American states, and to Brazil, and each of them may be incorporated into the union which is hereby established, and shall be bound by all the stipulations, by concluding a treaty for its acceptance with any one of the states signing the present treaty.

No. 28

NEW GRANADA (COLOMBIA)—UNITED STATES

*Convention for the arbitration of claims of citizens of the latter against the government of the former.—Signed at Washington, September 10, 1857*¹

The United States of America and the Republic of New Granada, desiring to adjust the claims of citizens of said states against New Granada, and to cement the good understanding which happily sub-

¹ English: Malloy, *Treaties and Conventions of the United States*, vol. 1, p. 319.

Spanish: *Tratados Públicos de Colombia* (1884), p. 76. This also contains the English text. See supplementary convention signed February 10, 1864, No. 43, *post*, p. 66.

Ratified by the United States, March 12, 1859; time for exchanging ratifications extended by the United States Senate, May 8, 1860; ratifications exchanged in Washington, November 5, 1860.

Neither the Spanish nor English texts in the Spanish source entirely agrees with the text in the English source; but on pp. 80 and 81 of the former are indicated changes which were agreed to when the ratifications were exchanged, which for the purposes of this publication have been introduced into the Spanish text, and which make it conform exactly with the text in the English source and with the United States Statutes at Large, which contain both English and Spanish texts. The most notable differences between the final text and that contained in the Spanish source (which is doubtless that of the treaty as originally signed) are the following: In Article I, the date before which all claims were to have been presented was that of the signature of the convention, instead of September 1, 1859, almost two years later. The date within which ratifications were to be exchanged was originally nine months counted from the date of signature. This was first changed to nine months counted from March 8, 1859; and finally all limitation on time for exchanging ratifications seems to have been removed. Article VII of the original convention, in which Colombia conceded to the United States the right to purchase or lease a piece of ground on one of the islands in the Bay of Panama for a coal depot, was suppressed, and what had been Article VIII became Article VII. It was to be understood that Colombia's obligation to maintain order on the Isthmus, mentioned in Article I, was to be no different from the obligation under which all nations are to maintain order in their own territories in conformity with the rules of international law and existing treaties. There were several other understandings, but on minor points of interpretation, and affecting Colombia only.

Because the nine months from the organization of the commission fixed in Article IV for the termination of its labors expired before the cases presented were all adjudicated, "by reason of uncontrollable circumstances," a new convention was signed February 10, 1864, for the adjustment of the remaining claims. See *post*, No. 43, p. 66.

sists between the two republics, have, for that purpose, appointed and conferred full powers, respectively, to wit:

The President of the United States upon Lewis Cass, Secretary of State of the United States, and the President of New Granada upon General Pedro A. Herran, Envoy Extraordinary and Minister Plenipotentiary of that republic in the United States;

Who, after exchanging their full powers, which were found in good and proper form, have agreed to the following articles:

ARTICLE I

All claims on the part of corporations, companies or individuals, citizens of the United States, upon the Government of New Granada, which shall have been presented prior to the first day of September, 1859, either to the Department of State at Washington, or to the Minister of the United States at Bogotá, and especially those for damages which were caused by the riot at Panama on the fifteenth of April, 1856, for which the said Government of New Granada acknowledges its liability, arising out of its privilege and obligation to preserve peace and good order along the transit route, shall be referred to a board of commissioners, consisting of two members, one of whom shall be appointed by the Government of the United States and one by the Government of New Granada. In case of the death, absence or incapacity of either commissioner, or in the event of either commissioner omitting or ceasing to act, the Government of the United States, or that of New Granada, respectively, or the minister of the latter in the United States, acting by its direction, shall forthwith proceed to fill the vacancy thus occasioned.

The commissioners so named shall meet in the city of Washington within ninety days from the exchange of the ratifications of this convention, and, before proceeding to business, shall make and subscribe a solemn oath that they will carefully examine and impartially decide, according to justice and equity, upon all the claims laid before them, under the provisions of this convention, by the Government of the United States. And such oath shall be entered on the record of their proceedings.

The commissioners shall then proceed to name an arbitrator or umpire, to decide upon any case or cases on which they may differ in opinion. And if they can not agree in the selection, the umpire shall be appointed by the Minister of Prussia to the United States, whom the two high contracting parties shall invite to make

such appointment, and whose selection shall be conclusive on both parties.

ARTICLE II

The arbitrator being appointed, the commissioners shall proceed to examine and determine the claims which may be presented to them, under the provisions of this convention, by the Government of the United States, together with the evidence submitted in support of them, and shall hear, if required, one person in behalf of each government on every separate claim. Each government shall furnish, upon request of either of the commissioners, such papers in its possession as the commissioners may deem important to the just determination of any claims presented to them. In cases where they agree to award an indemnity, they shall determine the amount to be paid, having due regard, in claims which have grown out of the riot of Panama of April 15, 1856, to damages suffered through death, wounds, robberies or destruction of property. In cases where they can not agree, the subjects of difference shall be referred to umpire, before whom each of the commissioners may be heard, and whose decision shall be final.

ARTICLE III

The commissioners shall issue certificates of the sums to be paid by virtue of their awards to the claimants, and the aggregate amount of said sums shall be paid to the Government of the United States, at Washington, in equal semi-annual payments, the first payment to be made six months from the termination of the commission, and the whole payment to be completed within eight years from the same date; and each of said sums shall bear interest (also payable semi-annually) at the rate of six per cent per annum from the day on which the awards, respectively, shall have been decreed. To meet these payments, the Government of New Granada hereby specially appropriates one-half of the compensation which may accrue to it from the Panama Railroad Company, in lieu of postages, by virtue of the thirtieth article of the contract between the Republic of New Granada and said Company, made April 15, 1850, and approved June 4, 1850, and also one-half of the dividends which it may receive from the net profits of said road, as provided in the fifty-fifth article of the same contract; but if these funds should prove insufficient to make the payments as above stipulated, New Granada will provide other means for that purpose.

ARTICLE IV

The commission herein provided shall terminate its labors in nine months from and including the day of its organization; shall keep an accurate record of its proceedings, and may appoint a secretary to assist in the transaction of its business.

ARTICLE V

The proceedings of this commission shall be final and conclusive with respect to all the claims before it, and its awards shall be a full discharge to New Granada of all claims of citizens of the United States against that republic which may have accrued prior to the signature of this convention.

ARTICLE VI

Each government shall pay its own commissioner, but the umpire, as well as the incidental expenses of the commission, shall be paid, one-half by the United States, and the other half by New Granada.

ARTICLE VII

The present convention shall be ratified, and the ratifications exchanged in Washington.

In faith whereof, we, the respective plenipotentiaries, have signed this convention, and have hereunto affixed our seals.

Done at Washington, this tenth day of September, in the year of our Lord one thousand eight hundred and fifty-seven.
[Here follow signatures.]

No. 29

COSTA RICA—NICARAGUA

*Provision for the arbitration of a boundary dispute, in a treaty of peace.—
Signed at Rivas, December 8, 1857*¹

ARTICLE VIII

The boundary between Costa Rica and Nicaragua shall be that which was established by the last treaty entered into at Managua in July of the present year between the commissioners, General José

¹ Spanish: *Tratados Internacionales de Costa Rica*, vol. II, p. 143.

No information is at hand whether this was or was not ratified by either party. It is included in Mr. Luis Anderson's manuscript study of the archives of the Costa Rican foreign office.

María Cañas and Attorney Gregorio Juárez; or instead that which heretofore has been recognized as the boundary of the District of Nicoya and within which the authorities of said District have constantly exercised acts of jurisdiction.

The Government of Costa Rica shall designate which of these two boundaries shall be considered as adopted, this fact to be comprised within the act of ratification of this treaty.

If the said government should adopt the second, and if, in establishing it, point by point, any difficulties should occur, they shall be removed by a board of arbitration which the two governments shall be obliged to name, in order that it may, upon examination of the documents, reach a final settlement.

No. 30

NEW GRANADA (COLOMBIA)—PERU

*Provision for general arbitration, in a treaty of friendship, commerce, and navigation.—Signed at Bogotá, March 8, 1858*¹

ARTICLE XL

The Republics of New Granada and Peru, desiring to render as lasting as possible under the circumstances the relations which have long existed between themselves, have agreed on the following:

First. The present treaty of friendship, commerce and navigation shall be perpetual in respect to the agreement contained in the first article; and respecting the rest, it shall be in force for a period of ten years, to be reckoned from the day on which the ratifications shall be exchanged. But if neither of the parties should announce to the other, through an official declaration, one year before the expiration of that period, its intention to terminate the treaty, it shall continue to be binding on both parties until one year after any day on which such notification shall have been given by either of said parties;

Secondly. If one or more citizens of either of the contracting parties should violate any of the articles of this treaty, he or they shall be personally responsible for the violation, but such circumstance shall not interrupt the relations of good harmony and friendliness between the two nations, each of the parties hereto binding itself not

¹ Spanish: Aranda, *Tratados del Perú*, vol. III, p. 269. Found also in *Tratados Públicos de Colombia*, vol. II (1884), p. 118.

Ratifications exchanged at Bogotá, June 23, 1859. See either source. Wiesse, *Tratados de Arbitramento*, p. 40, gives the arbitral clauses.

to protect in any way the violators of the treaty and not to sanction or authorize such violation;

Thirdly. If (what is not to be expected) unfortunately any one or more of the articles of this treaty should be violated or infringed by either of the two governments, the party which may consider itself offended shall present to the other a statement of the injuries or damages, supplying evidence with adequate documents, and shall ask justice and satisfaction. If the party addressed should refuse to do justice to the other or to give the satisfaction asked, the two powers shall submit the question to a government friendly to both of them, and they shall abide by the decision which the latter may render;

Fourthly. In all cases of controversy, in which the two contracting parties shall not be able to come to an agreement through diplomatic channels, they shall appeal to the decision of an arbitrator to arrange their differences peaceably and definitively;

Fifthly. Neither of the contracting parties shall be permitted to declare war on the other, nor resort to or authorize acts of reprisal or hostility, except in case of the other party's making impossible any diplomatic adjustment or the arbitral decision of a friendly government.

No. 31

COSTA RICA—NICARAGUA

*Provision for general arbitration, in a treaty of peace, friendship, alliance, and commerce.—Signed at Rivas, April 30, 1858*¹

ARTICLE XXIV

If for any cause the relations of amity and commerce between the two republics should be interrupted, which God forbid, the citizens of each of the two contracting parties residing in the territory of the other shall remain undisturbed, duly respected and under the protection which the laws give to native born subjects.

¹ Spanish: *Tratados Internacionales de Costa Rica*, vol. II (1893), p. 158.

No certain evidence is at hand whether it was or was not ratified by either party, or whether the ratifications were exchanged. Bonilla's *Tratados Internacionales de Nicaragua* (published by order of the government, 1909), p. 352, prints the treaty, marking it *in-subsistente* in the list of contents, p. 563. *Tratados de Arbitraje de Nicaragua* (also published officially, in 1914), p. 123, prints the arbitral provisions without comment. It is also included in Mr. Luis Anderson's manuscript study of the archives of the Costa Rican foreign office.

ARTICLE XXV

In the supposed case referred to in the foregoing article, if the interruption of the good understanding and harmony between the Republics of Costa Rica and Nicaragua should be due to the infringement of any one or more of the articles of this treaty, it is declared and established: that such infringement shall not authorize reprisals nor hostile measures, until the offended party shall explain such offenses and, if it does not consider itself satisfied, shall submit them to the impartial decision of two states of the Central American Union, to be designated one by each of said parties.

No. 32

CHILE—UNITED STATES

*Convention for the arbitration of the "Macedonian" Claims.—Signed at Santiago, November 10, 1858*¹

The Government of the United States of America and the Government of the Republic of Chile desiring to settle amicably the claim made by the former upon the latter for certain citizens of the United States of America, who claim to be the rightful owners of the silver in coin and in bars forcibly taken from the possession of Captain Eliphalet Smith, a citizen of the United States of America, in the valley of Sitana, in the territory of the former Vice Royalty of Peru, in the year 1821, by order of Lord Cochrane, at that time Vice Admiral of the Chilean Squadron, have agreed, the former to name John Bigler, Envoy Extraordinary and Minister Plenipotentiary of the United States of America, and the latter, Don Gerónimo Urmeneta, Minister of State in the Department of Interior and Foreign Relations, in the name and in behalf of their respective governments to examine the said claim and to agree upon terms of arrangement just and honorable to both governments.

The aforesaid plenipotentiaries, after having exchanged their full powers, and found them in due and good form, sincerely desiring to preserve intact and strengthen the friendly relations which happily exist between their respective governments, and to remove all cause of difference, which might weaken or change them, have agreed in the

¹ English: *United States Statutes at Large*, vol. 12, p. 1083.

Spanish: *Tratados de Chile*, vol. I, p. 294.

Ratifications exchanged at Santiago, October 15, 1859.

name of the government which each represents, to submit to the arbitration of His Majesty the King of Belgium, the pending question between them, respecting the legality or illegality of the above referred to capture of silver in coin and in bars, made on the ninth day of May, 1821, by order of Lord Cochrane, Vice Admiral of the Chilean squadron, in the valley of Sitana, in the territory of the former Vice Royalty of Peru, the proceeds of sales of merchandise imported into that country in the brig *Macedonian* belonging to the merchant marine of the United States of America.

Therefore the above-named ministers agree to name His Majesty the King of Belgium as arbiter, to decide with full powers and proceedings *ex æquo et bono*, on the following points:

First. Is, or is not, the claim which the Government of the United States of America makes upon that of Chile, on account of the capture of the silver mentioned in the preamble of this convention, just in whole or in part?

Secondly. If it be just in whole or in part, what amount is the Government of Chile to allow and pay to the Government of the United States of America, as indemnity for the capture?

Thirdly. Is the Government of Chile, in addition to the capital, to allow interest thereon; and, if so, at what rate and from what date is interest to be paid?

The contracting parties further agree that His Majesty the King of Belgium shall decide the foregoing questions upon the correspondence which has passed between the representatives of the two governments at Washington and at Santiago, and the documents and other proofs produced during the controversy on the subject of this capture, and upon a memorial or argument thereon to be presented by each.

Each party to furnish the arbiter with a copy of the correspondence and documents above referred to, or so much thereof as it desires to present, as well as with its said memorial, within one year at furthest from the date at which they may respectively be notified of the acceptance of the arbiter.

Each party to furnish the other with a list of the papers to be presented by it to the arbiter, three months in advance of such presentation.

And if either party fail to present a copy of such papers, or its memorial, to the arbiter, within the year aforesaid, the arbiter may make his decision upon what shall have been submitted to him within that time.

The contracting parties further agree that the exception of prescription, raised in the course of the controversy, and which has been a subject of discussion between their respective governments, shall not be considered by the arbiter in his decision, since they agree to withdraw it and exclude it from the present question.

Each of the governments represented by the contracting parties is authorized to ask and obtain the acceptance of the arbiter; and both promise and bind themselves in the most solemn manner to acquiesce in and comply with his decision, nor at any time thereafter to raise any question directly or indirectly connected with the subject-matter of this arbitration.

This convention to be ratified by the governments of the respective contracting parties, and the ratifications to be exchanged within twelve months from this date, or sooner, if possible, in the city of Santiago.

In testimony whereof, the contracting parties have signed and sealed this agreement in duplicate, in the English and Spanish languages, in Santiago, the tenth day of the month of November, in the year of our Lord, one thousand eight hundred and fifty-eight. [Here follow signatures.]

No. 33

PARAGUAY—UNITED STATES

*Convention for the arbitration of the claims of the "United States and Paraguay Navigation Company."—Signed at Asunción, February 4, 1859*¹

His Excellency the President of the United States of America and His Excellency the President of the Republic of Paraguay, desiring to remove every cause that might interfere with the good understanding and harmony, for a time so unhappily interrupted, between the two nations, and now so happily restored, and which it is so much for their interest to maintain; and desiring for this purpose to come to a definite understanding, equally just and honorable to both nations, as to the mode of settling a pending question of the said claims of the "United States and Paraguay Navigation Company"—a company composed of citizens of the United States— against the Government

¹ English: *Proclamation of the President of the United States of March 12, 1860.*

Spanish: *Archivo Diplomático y Consular del Paraguay*, vol. I, p. 137.

Ratified by the United States, March 7, 1860; ratifications exchanged at Washington March 7, 1860.

of Paraguay,¹ have agreed to refer the same to a special and respectable commission, to be organized and regulated by the convention hereby established between the two high contracting parties; and for this purpose they have appointed and conferred full powers, respectively, to wit:

His Excellency the President of the United States of America upon James B. Bowlin, a special commissioner of the said United States of America, specifically charged and empowered for this purpose; and His Excellency the President of the Republic of Paraguay upon Señor Nicolas Vasquez, Secretary of State and Minister of Foreign Affairs of the said Republic of Paraguay; who, after exchanging their full powers, which were found in good and proper form, agreed upon the following articles:

ARTICLE I

The Government of the Republic of Paraguay binds itself for the responsibility in favor of the "United States and Paraguay Navigation Company," which may result from the decree of commissioners, who, it is agreed, shall be appointed as follows.

ARTICLE II

The two high contracting parties, appreciating the difficulty of agreeing upon the amount of the reclamations to which the said company may be entitled, and being convinced that a commission is the only equitable and honorable method by which the two countries can arrive at a perfect understanding thereof, hereby covenant to adjust them accordingly by a loyal commission. To determine the amount of said reclamations, it is, therefore, agreed to constitute such a commission, whose decision shall be binding, in the following manner:

The Government of the United States of America shall appoint one commissioner, and the Government of Paraguay shall appoint another; and these two, in case of disagreement, shall appoint a third, said appointment to devolve upon a person of loyalty and impartiality, with the condition that, in case of difference between the commissioners in the choice of an umpire, the diplomatic representatives of Russia and Prussia, accredited to the Government of the United States of America, at the city of Washington, may select such umpire.

¹ The phrase "against the Government of Paraguay (*contra el Gobierno del Paraguay*)" is omitted in the Spanish source, but evidently this was a mere oversight.

The two commissioners named in the said manner shall meet in the city of Washington, to investigate, adjust, and determine the amount of the claims of the above-mentioned company, upon sufficient proofs of the charges and defences of the contending parties.

ARTICLE III

The said commissioners, before entering upon their duties, shall take an oath before some judge of the United States of America that they will fairly and impartially investigate the said claims, and a just decision thereupon render, to the best of their judgment and ability.

ARTICLE IV

The said commissioners shall assemble, within one year after the ratification of the "treaty of friendship, commerce, and navigation" this day celebrated at the city of Asunción between the two high contracting parties, at the city of Washington in the United States of America, and shall continue in session for a period not exceeding three months, within which, if they come to an agreement, their decision shall be proclaimed; and in case of disagreement, they shall proceed to the appointment of an umpire as already agreed.

ARTICLE V

The Government of Paraguay hereby binds itself to pay to the Government of the United States of America, in the city of Asunción, Paraguay, thirty days after presentation to the government of the republic, the draft which that of the United States of America shall issue for the amount for which the two commissioners concurring, or by the umpire, shall declare it responsible to the said company.

ARTICLE VI

Each of the high contracting parties shall pay to the commissioner it may appoint the sum of money which he may stipulate for his services, either by instalments or at the expiration of his task. In case of the appointment of an umpire, the amount of his remuneration shall be equally borne by both contracting parties.

ARTICLE VII

The present convention shall be ratified within fifteen months, or earlier if possible, by the Government of the United States of America, and by the President of the Republic of Paraguay within

twelve days from this date. The exchange of ratifications shall take place in the city of Washington.

In faith whereof, and in virtue of our full powers, we have signed the present convention in English and Spanish, and have thereunto set our respective seals.

Done at Asunción, this fourth day of February, in the year of our Lord one thousand eight hundred and fifty-nine, being the eighty-third year of the independence of the United States of America, and the forty-seventh of that of Paraguay.

[Here follow signatures.]

No. 34

PERU—VENEZUELA

*Provision for general arbitration, in a treaty of friendship, commerce, and navigation.—Signed at Carácas, April 1, 1859*¹

ARTICLE XXXIX

The Republics of Peru and Venezuela, desiring to render as permanent as circumstances permit the mutual relations that for some time have existed between them, agree to the following:

First. This treaty of friendship, commerce and navigation shall be perpetual so far as the provision of the first article is concerned; and with respect to the rest, it shall be in force for the term of ten years, reckoned from the day when the ratifications shall be exchanged. But if neither of the parties should officially notify the other one year before the expiration of that term of its intention to have the treaty terminate, it shall continue to be obligatory for both parties, until the lapse of one year after any day on which such notification shall be made by one of them.

Secondly. If one or more citizens of one of the contracting parties should violate any of the articles of this treaty, he, or they, shall be personally responsible therefor, without the harmonious relations between the two nations being interrupted thereby, each of the said parties assuming the obligation not to protect the offenders in any way nor sanction or authorize the violation.

¹ Spanish: Aranda, *Tratados del Perú*, vol. XII, p. 623.

No certain evidence is at hand whether this was or was not ratified. Aranda makes no comment concerning it, although he usually gives such information. The treaty is not included in *Tratados Públicos de Venezuela*, 1910.

Thirdly. If (what is not to be expected) unfortunately any one or more of the articles of this treaty should be in any manner broken or violated by either of the two governments, the party which may consider itself offended shall present to the other a statement of the injuries or damages done, supported by competent documents, and shall ask justice and satisfaction. If the party on whom the demand is made should refuse to do justice to the other or to give the satisfaction asked, both shall submit the question to the decision of a government friendly to each of them, and they shall abide by the decision that such government may render.

Fourthly. In all cases of controversy, wherein the two contracting parties shall not be able to agree through diplomatic channels, they shall appeal to the decision of an arbitrator, in order to arrange their differences in a peaceful and definite manner.

Fifthly. Neither of the contracting parties shall declare war against the other, nor order or authorize acts of reprisal or hostility, except in case the other shall make impossible a settlement through diplomatic channels or the arbitral decision of a friendly government.

No. 35

ECUADOR—PERU

*Provision for general arbitration, in a treaty of peace.—Signed at Guayaquil, January 25, 1860*¹

ARTICLE XXIII

With the important object of preventing, or making more difficult, or even impossible, war between Peru and Ecuador, they agree that neither of the two nations shall employ its arms against the other without having previously demanded justice from the government from which it may have received the injury or offense, and without the difference being submitted to the decision of a neutral power.

¹ English: *British and Foreign State Papers*, vol. L, p. 1090.

Spanish: Aranda, *Tratados del Perú*, vol. v, p. 301.

Nominally ratified by the Peruvian Executive January 26, 1860; and by the Ecuadorian Executive January 27, 1860. But both ratifications were with the reservation that the treaty was to be submitted to the legislative body of the respective countries for approval. The succeeding Ecuadorian administration disapproved it; and the Peruvian Congress also disapproved. See Spanish source, p. 304.

No. 36

COSTA RICA—UNITED STATES

Convention for the arbitration of claims of citizens of the latter against the government of the former.—Signed at San José, July 2, 1860 ¹

The United States of America and the Republic of Costa Rica, desiring to adjust the claims of citizens of said states against Costa Rica in such a manner as to cement the good understanding and friendly relations now happily subsisting between the two republics, have resolved to settle such claims by means of a convention; and, for that purpose, appointed and conferred full powers, respectively, to wit:

The President of the United States, on Alexander Dimitry, Minister Resident of said United States in the Republic of Costa Rica, and His Excellency the Constitutional President of said Republic of Costa Rica, on Manuel José Carazo and Francisco Maria Yglesias; who, upon an exchange of their plenary powers, which were found in good and proper form, have agreed to the following articles:

ARTICLE I

It is agreed that all claims of citizens of the United States, upon the Government of Costa Rica, arising from injuries to their persons, or damages to their property, under any form whatsoever, through the action of authorities of the Republic of Costa Rica, statements of which, soliciting the interposition of the Government of the United States, have been presented to the Department of State at Washington, or to the diplomatic agents of said United States at San José, of Costa Rica, up to the date of the signature of this convention, shall, together with the documents in proof, on which they may be founded, be referred to a Board of Commissioners, consisting of two members, who shall be appointed in the following manner: one by the Government of the United States of America, and one by the Government of the Republic of Costa Rica: *Provided, however, That no claim of any citizen of the United States, who may be proved to*

¹ English: *United States Statutes at Large*, vol. 12, p. 1135.

Spanish: *Tratados Internacionales de Costa Rica*, vol. II (1893), p. 197.

Approved by the Costa Rican Congress, July 12, 1860; ratified by the United States, November 7, 1861; ratifications exchanged, November 9, 1861. This was long after the expiration of the eight months allowed for the exchange; but the time had been extended by the United States Senate on March 12, 1861, and by the Costa Rican Congress on July 2, 1861.

have been a belligerent during the occupation of Nicaragua by the troops of Costa Rica, or the exercise of authority, by the latter, within the territory of the former, shall be considered as one proper for the action of the Board of Commissioners herein provided for.

In case of the death, absence, or incapacity of either commissioner, or in the event of either commissioner's omitting or ceasing to act, the Government of the United States of America, or that of the Republic of Costa Rica, respectively, or the minister of the latter, in the United States, acting by its direction, shall forthwith proceed to fill the vacancy thus occasioned.

ARTICLE II

The commissioners so named shall meet at the city of Washington, within ninety days from the exchange of the ratifications of this convention; and, before proceeding to business, they shall, each of them, exhibit a solemn oath, made and subscribed before a competent authority, that they will carefully examine into, and impartially decide, according to the principles of justice and of equity, and to the stipulations of treaty, upon all the claims laid before them, under the provisions of this convention, by the Government of the United States, and in accordance with such evidence as shall be submitted to them on the part of said United States and of the Republic of Costa Rica, respectively. And their oath, to such effect, shall be entered upon the record of their proceedings.

Said commissioners shall then proceed to name an arbitrator, or umpire, to decide upon any case or cases concerning which they may disagree, or upon any point or points of difference which may arise in the course of their proceedings. And if they can not agree in the selection, the arbitrator or umpire shall be appointed by the minister of His Majesty the King of the Belgians to the United States, whom the two high contracting parties shall invite to make such appointment, and whose selection shall be conclusive on both parties.

ARTICLE III

The arbitrator, or umpire, being appointed, the commissioners shall, without delay, proceed to examine and determine the claims which may be presented to them, under the provisions of this convention, by the Government of the United States, as stated in the preceding article; and they shall hear, if required, one person in behalf of each government, on every separate claim.

Each government shall furnish, upon request of either of the commissioners, such papers in its possession as may be deemed important to the just determination of any claims of citizens of the United States, referred to the board, under the provisions of the first article.

In cases, whether touching injuries to the person, limb or life of any said citizens, or damages committed, as stipulated in the first article, against their property, in which the commissioners may agree to award an indemnity, they shall determine the amount to be paid. In cases in which said commissioners can not agree, the points of difference shall be referred to the arbitrator, or umpire, before whom each of the commissioners may be heard, and his decision shall be final.

ARTICLE IV

The commissioners shall issue certificates of the sums to be paid to the claimants, respectively, whether by virtue of the awards agreed to between themselves, or of those made by them, in pursuance of decisions of the arbitrator, or umpire; and the aggregate amount of said sums, decreed by the certificates of award made by the commissioners, in either manner above indicated, and of the sums also accruing from such certificates of award as the arbitrator, or umpire, may, under the authority hereinafter conferred by the seventh article, have made and issued, with the rate of interest stipulated in the present article, in favor of any claimant or claimants, shall be paid to the Government of the United States, in the city of Washington, in equal semi-annual instalments. It is, however, hereby agreed by the contracting parties, that the payment of the first instalment shall be made eight months from the termination of the labors of the commission; and, after such first payment, the second, and each succeeding one, shall be made semi-annually, counting from the date of the first payment; and the whole payment of such aggregate amount or amounts, shall be perfected within the term of ten years from the termination of said commission; and each of said sums shall bear interest (also payable semi-annually) at the rate of six per cent per annum, from the day on which the awards, respectively, will have been decreed.

To meet these payments, the Government of the Republic of Costa Rica hereby specially appropriates fifty per cent of the net proceeds of the revenues arising from the customs of the said republic; but if such appropriation should prove insufficient to make the payments as

above stipulated, the government of said republic binds itself to provide other means for that purpose.

ARTICLE V

The commission herein provided shall terminate its labors in nine months from and including the day of its organization. They shall keep an accurate record of all their proceedings, and they may appoint a secretary, versed in the knowledge of the English and of the Spanish languages, to assist in the transaction of their business. And, for the conduct of such business, they are hereby authorized to make all necessary and lawful rules.

ARTICLE VI

The proceedings of this commission shall be final and conclusive with respect to all the claims of citizens of the United States, which, having accrued prior to the date of this convention, may be brought before it for adjustment; and the United States agree forever to release the Government of the Republic of Costa Rica from any further accountability for claims which shall be rejected, either by the Board of Commissioners, or by the arbitrator or umpire aforesaid; or for such as, being allowed by either the board or the umpire, the Government of Costa Rica shall have provided for and satisfied in the manner agreed upon in the fourth article.

ARTICLE VII

In the event, however, that upon the termination of the labors of said commission stipulated for in the fifth article of this convention, any case or cases should be pending before the umpire, and awaiting his decision, it is hereby understood and agreed by the two contracting parties that, though the Board of Commissioners may, by such limitation, have terminated their action, said umpire is hereby authorized and empowered to proceed to make his decision or award in such case or cases pending as aforesaid; and, upon his certificate thereof, in such case, transmitted to each of the two governments, mentioning the amount of indemnity, if such shall have been allowed by him, together with the rate of interest specified by the fourth article, such decision or award shall be taken and held to be binding and conclusive, and it shall work the same effect as though it had been made by both the commissioners under their own agreement, or by them upon decision of the case or of the cases, respectively, pronounced by the um-

pire of said board, during the period prescribed for its sessions: *Provided, however,* That a decision on every case that may be pending at the termination of the labors of the board shall be given by the umpire within sixty days from their final adjournment; and that, at the expiration of the said sixty days, the authority and power hereby granted to said umpire shall cease.

ARTICLE VIII

Each government shall pay its own commissioner; but the umpire, as well as the incidental expenses of the commission, including the defrayal of the services of a secretary, who may be appointed under the fifth article, shall be paid one-half by the United States, and the other half by the Republic of Costa Rica.

ARTICLE IX

The present convention shall be approved and ratified by the President of the United States of America, by and with the advice and consent of the Senate of the said states; and by the President of the Republic of Costa Rica, with the consent and approbation of the Supreme Legislative Power of said republic; and the ratifications shall be exchanged in the city of Washington, within the space of eight months from the date of the signature hereof, or sooner if possible.

In faith whereof, and by virtue of our respective powers, we, the undersigned, have signed the present convention, in duplicate, and have hereunto affixed our seals.

Done at the city of San José, on the second day of July, in the year one thousand eight hundred and sixty, and in the eighty-fourth year of the independence of the United States of America, and of the independence of Costa Rica the thirty-ninth.

[Here follow signatures.]

No. 37

COSTA RICA—NICARAGUA

*Provision for general arbitration, in a treaty of alliance and union.—
Signed at Managua, March 7, 1861*¹

ARTICLE II

In order to effect the uniformity of their foreign policy, they shall organize a board composed of one delegate for each of the aforementioned republics, to be appointed by the executive power, which shall reside in the city of Leon or Chinandega, Nicaragua, and through which they shall direct their relations with foreign governments, appoint ministers and diplomatic agents in common, conclude the treaties which may hereafter be negotiated, and, as far as possible, render identical with each other those (treaties) now existing, in concert with the respective interested powers, each republic, however, preserving its own sovereignty, liberty, independence and all its jurisdictional power.

ARTICLE V

In the event of any disputes arising between any of the republics they shall abstain from all active measures and shall submit them to the decision of the board which in such cases shall have the character of an arbitral court. The first act of the court in each case shall be to appoint an umpire.

¹ Spanish: *Tratados Internacionales de Costa Rica*, vol. II (1893), p. 162.

Ratification advised by the Congress of Costa Rica, June 25, 1861, with modifications previously made by the congress of Nicaragua, and with other changes made by it. Proclaimed by the Costa Rican executive, July 5, 1861.

No. 38

GUATEMALA—NICARAGUA

*Provision for general arbitration, in a treaty of peace, friendship, and commerce.—Signed at Guatemala, September 20, 1862*¹

ARTICLE VII

The two republics agree that in no case shall there be war between them; and should any differences arise, proper explanations shall first be given, recourse being had eventually, failing mutual agreement, to the arbitration of the government of some friendly nation.

ARTICLE VIII

The two contracting parties likewise agree that in the unfortunate event of any difference arising between either of them and another of the states of Central America, they shall offer their mediation or adopt measures to bring about arbitration whichever may be proper; and the contracting parties shall lend each other mutual aid whenever, in the opinion of the two governments, it may be necessary for defense purposes in case their territories are invaded.

ARTICLE IX

In case the disagreement should occur between some of the states of Central America other than the contracting parties, the latter, by mutual agreement, or each by itself, shall offer their good offices and friendly mediation in order to maintain general harmony throughout the whole country.

ARTICLE X

Should the disagreement occur between one of the contracting governments and a foreign power, the other shall offer its good offices, urging the rest of the states, as the case may be, to do the same on their part until an equitable and satisfactory settlement is obtained.

¹ Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. I (1892), p. 544.

No positive information is at hand concerning the time or even the fact of ratifications or exchange; but at the close of the text, p. 546, it is marked "repealed (*está derogado*)," implying that it had been in force. In Bonilla, *Tratados Internacionales de Nicaragua*, which prints the treaty on pp. 45-50, it is marked "not in force (*insubsistente*)" in the list of contents, p. 561, which does not necessarily imply that it ever had been in force. At the close of the text in Bonilla the date is given 1872 (*mil ochocientos sesenta y dos*); but this is doubtless a mere typographical error for sixty-two (*sesenta y dos*), since at the beginning of the text and in the list of contents it is marked "1862." Wiesse, *Tratados de Arbitramiento*, p. 43, prints Article VII only, giving the date 1862, but making no comment concerning ratification.

This agreement shall take effect as soon as knowledge of the controversy and the requisite information concerning its nature and circumstances are obtained.

No. 39

ECUADOR—UNITED STATES

Convention for the arbitration of pending claims of the citizens of each against the government of the other—Signed at Guayaquil, November 25, 1862¹

The United States of America and the Republic of Ecuador, desiring to adjust the claims of citizens of said states against Ecuador, and of citizens of Ecuador against the United States, have, for that purpose, appointed and conferred full powers, respectively, to wit: The President of the United States on Frederick Hassaurek, Minister Resident of the United States in Ecuador, and the President of Ecuador on Juan José Flores, General in Chief of the Armies of the Republic, who, after exchanging their full powers, which were found to be in good and proper form, have agreed on the following articles:

ARTICLE I

All claims on the part of corporations, companies, or individuals, citizens of the United States, upon the Government of Ecuador, or of corporations, companies, or individuals, citizens of Ecuador, upon the Government of the United States, shall be referred to a Board of Commissioners, consisting of two members, one of whom shall be appointed by the Government of the United States, and one by the Government of Ecuador. In case of death, absence, resignation, or incapacity of either Commissioner, or in the event of either Commissioner omitting or ceasing to act, the Government of the United States or that of Ecuador, respectively, or the Minister of the United States in Ecuador, in the name of his government, shall forthwith proceed to fill the vacancy thus occasioned. The Commissioners so named shall meet in the city of Guayaquil within ninety days from the exchange of the ratifications of this convention, and before proceeding to business shall make solemn oath that they will carefully

¹ English and Spanish: *United States Statutes at Large*, vol. 13, p. 631.

Ratified by the United States, February 13, 1863; and ratifications exchanged at Quito, July 27, 1864.

examine and impartially decide according to justice, and in compliance with the provisions of this convention, all claims that shall be submitted to them; and such oath shall be entered on the record of their proceedings.

The commissioners shall then proceed to name an arbitrator or umpire, to decide upon any case or cases concerning which they may disagree, or upon any point of difference which may arise in the course of their proceedings. And if they can not agree in the selection, the umpire shall be appointed by Her Britannic Majesty's Chargé d'Affaires, or (excepting the Minister Resident of the United States) by any other diplomatic agent in Quito whom the two high contracting parties shall invite to make such appointment.

ARTICLE II

The arbitrator or umpire being appointed, the commissioners shall, without delay, proceed to examine the claims which may be presented to them by either of the two governments; and they shall hear, if required, one person in behalf of each government on every separate claim. Each government shall furnish, upon request of either commissioner, such papers in its possession as may be deemed important to the just determination of any claim or claims.

In cases where they agree to award an indemnity, they shall determine the amount to be paid. In cases in which said commissioners can not agree, the points of difference shall be referred to the umpire, before whom each of the commissioners may be heard, and whose decision shall be final.

ARTICLE III

The commissioners shall issue certificates of the sums to be paid to the claimants respectively, whether by virtue of the awards agreed to between themselves or of those made by the umpire; and the aggregate amount of all sums decreed by the commissioners, and of all sums accruing from awards made by the umpire, under the authority conferred by the fifth article, shall be paid to the government to which the respective claimants belong. Payment of said sums shall be made in equal annual instalments, to be completed within nine years from the date of the termination of the labors of the commission, the first payment to be made six months after the same date. To meet these payments both governments pledge the revenues of their respective nations.

ARTICLE IV

The commission shall terminate its labors in twelve months from the date of its organization. They shall keep a record of their proceedings, and may appoint a secretary versed in the knowledge of the English and Spanish languages.

ARTICLE V

The proceedings of this commission shall be final and conclusive with respect to all pending claims. Claims which shall not be presented to the commission within the twelve months it remains in existence will be disregarded by both governments, and considered invalid. In the event that, upon the termination of the labors of said commission, any case or cases should be pending before the umpire, and awaiting his decision, said umpire is hereby authorized to make his decision or award in such case or cases, and his certificate thereof in each case, transmitted to each of the two governments, shall be held to be binding and conclusive: provided, however, that his decision shall be given within thirty days from the termination of the labors of the commission, at the expiration of which thirty days his power and authority shall cease.

ARTICLE VI

Each government shall pay its own commissioner; but the umpire, as well as the incidental expenses of the commission, shall be paid one-half by the United States and the other half by Ecuador.

ARTICLE VII

The present convention shall be ratified, and the ratifications exchanged in the city of Quito.

In faith whereof, we, the respective plenipotentiaries, have signed this convention and hereunto affixed our seals, in the city of Guayaquil, this twenty-fifth day of November, in the year of our Lord, eighteen hundred and sixty-two.

[Here follow signatures.]

No. 40

PERU—UNITED STATES

*Convention for the arbitration of a dispute concerning the capture by the former of two vessels belonging to citizens of the latter.—Signed at Lima, December 20, 1862*¹

Whereas, differences having arisen between the United States of America and the Republic of Peru, originating in the capture and confiscation by the latter of two ships belonging to citizens of the United States, called the *Lizzie Thompson* and *Georgiana*; and the two governments not being able to come to an agreement on the questions involved in said capture and confiscation, and being equally animated with the desire to maintain the relations of harmony which have always existed, and which it is desirable to preserve and strengthen between the two governments, have agreed to refer all the questions, both of law and fact, involved in the capture and confiscation of said ships by the Government of Peru, to the decision of some friendly power; and it being now expedient to proceed to and regulate the reference as above described, the United States of America and the Republic of Peru have for that purpose named their respective plenipotentiaries, that is to say: the President of the United States has appointed Christopher Robinson, their Envoy Extraordinary and Minister Plenipotentiary to Peru, and the President of Peru, Don José Gregorio Paz-Soldan, Minister of State in the Office of Foreign Relations and President of the Council of Ministers, who, after having exchanged their full powers, found to be in due and proper form, have agreed upon the following articles:

ARTICLE I

The two contracting parties agree in naming as arbiter, umpire, and friendly arbitrator, His Majesty the King of Belgium, conferring upon him the most ample power to decide and determine all the questions both of law and fact involved in the proceedings of the Government of Peru in the capture and confiscation of the ships *Lizzie Thompson* and *Georgiana*.

¹ English: *United States Statutes at Large*, vol. 13, p. 635.

Spanish: Aranda, *Tratados del Perú*, vol. VII, p. 406.

Ratified by the United States, February 24, 1863; by Peru, April 15, 1863; and ratifications exchanged at Lima, April 21, 1863.

ARTICLE II

The two contracting parties will adopt the proper measures to solicit and obtain the assent of His Majesty the King of Belgium to act in the office hereby conferred upon him.

After His Majesty the King of Belgium shall have declared his assent to exercise the office of arbiter, the two contracting parties will submit, through their diplomatic agents residing at Brussels, to His Majesty copies of all the correspondence, proofs, papers, and documents which have passed between the two governments or their respective representatives; and should either party think proper to present to said arbiter any other papers, proofs, or documents in addition to those above mentioned, the same shall be communicated to the other party within four months after the ratification of this convention.

ARTICLE III

Both parties being equally interested in having a decision upon the questions hereby submitted, they agree to deliver to the said arbiter all the documents referred to in the second article within six months after he shall have signified his consent to act as such.

ARTICLE IV

The sentence or decision of said arbiter when given shall be final and conclusive upon all the questions hereby referred, and the contracting parties hereby agree to carry the same into immediate effect.

ARTICLE V

This convention shall be ratified and the ratifications exchanged in the term of six months from the date hereof.

In faith whereof the plenipotentiaries of the two governments have signed and sealed, with their respective seals, the present convention.

Done in the city of Lima, in duplicate, on the twentieth day of December, in the year of our Lord one thousand eight hundred and sixty-two.

[Here follow signatures.]

No. 41

PERU—UNITED STATES

*Convention for the arbitration of all claims of the citizens of either against the government of the other.—Signed at Lima, January 12, 1863*¹

The United States of America and the Republic of Peru, desiring to settle and adjust amicably the claims which have been made by the citizens of each country against the government of the other, have agreed to make arrangements for that purpose by means of a convention, and have named as their plenipotentiaries to confer and agree thereupon as follows: The President of the United States, Christopher Robinson, Envoy Extraordinary and Minister Plenipotentiary of said states to Peru, and the President of Peru, Don José Gregorio Paz-Soldan, the Minister of Foreign Relations and President of the Council of Ministers; who, after having communicated to each other their respective full powers, found to be in due and proper form, have agreed as follows:

ARTICLE I

All claims of citizens of the United States against the Government of Peru, and of citizens of Peru against the Government of the United States, which have not been embraced in conventional or diplomatic agreement between the two governments or their plenipotentiaries, and statements of which, soliciting the interposition of either government, may, previously to the exchange of the ratifications of this convention, have been filed in the Department of State at Washington, or the Department of Foreign Affairs at Lima, shall be referred to a mixed commission composed of four members, appointed as follows: Two by the Government of the United States and two by the Government of Peru. In case of the death, absence, or incapacity of either commissioner, or in the event of either commissioner ceasing to act, the Government of the United States, or

¹ English: *United States Statutes at Large*, vol. 13, p. 639.

Spanish: Aranda, *Tratados del Perú*, vol. vii, p. 412.

Ratified by the United States, February 24, 1863; ratified by Peru, April 15, 1863; ratifications exchanged at Lima, April 18, 1863. The Senate of the United States had introduced an amendment changing the first article so that instead of providing for the arbitration of one specified claim against each government it provided for all claims of the citizens of either against the government of the other. The Peruvian Government approved the amendment, incorporating it in its act of ratification and also in the act of exchange, both of which are printed in Aranda following the text. Article I in the body of his text reads as it was originally.

its Envoy Extraordinary and Minister Plenipotentiary in Peru, acting under its direction, or that of the Republic of Peru, shall forthwith proceed to fill the vacancy thus occasioned.

ARTICLE II

The commissioners so named shall immediately after their organization, and before proceeding to any other business, proceed to name a fifth person to act as an arbitrator or umpire in any case or cases in which they may themselves differ in opinion.

ARTICLE III

The commissioners appointed as aforesaid shall meet in Lima within three months after the exchange of the ratifications of this convention; and each one of the commissioners, before proceeding to any business, shall take an oath, made and subscribed before the most Excellent Supreme Court, that they will carefully examine and impartially decide, according to the principles of justice and equity, the principles of international law and treaty stipulations, upon all the claims laid before them under the provisions of this convention, and in accordance with the evidence submitted on the part of either government. A similar oath shall be taken and subscribed by the person selected by the commissioners as arbitrator or umpire, and said oaths shall be entered upon the record of the proceedings of said commission.

ARTICLE IV

The arbitrator or umpire being appointed, the commissioners shall, without delay, proceed to examine and determine the claims specified in the first article, and shall hear, if required, one person in behalf of each government on each separate claim. Each government shall furnish, at the request of either of the commissioners, the papers in its possession which may be important to the just determination of any of the claims referred.

ARTICLE V

From the decision of the commissioners there shall be no appeal; and the agreement of three of them shall give full force and effect to their decisions as well with respect to the justice of their claims as to the amount of indemnification that may be adjudged to the claimants; and in case the commissioners can not agree, the points of difference shall be referred to the arbitrator or umpire, before whom the commissioners may be heard, and his decision shall be final.

ARTICLE VI

The decision of the mixed commission shall be executed without appeal by each of the contracting parties, and it shall be the duty of the commissioners to report to the respective governments the result of their proceedings; and if the decision of said commissioners require the payment of indemnities to any of the claimants, the sums determined by the said commissioners shall be paid by the government against which they are awarded within one month after said government shall have received the report of said commissioners; and for any delay in the payment of the sum awarded after the expiration of said month, the sum of six per cent interest shall be paid during such time as said delay shall continue.

ARTICLE VII

For the purpose of facilitating the labors of the mixed commission, each government shall appoint a secretary to assist the commission in the transaction of their business and to keep a record of their proceedings, and for the conduct of their business said commissioners are authorized to make all necessary rules.

ARTICLE VIII

The decisions of this commission, or of the umpire in case of a difference between the commissioners, shall be final and conclusive, and shall be carried into full effect by the two contracting parties. The commission shall terminate its labors in six months from and including the day of its organization; provided, however, if at the time stipulated for the termination of said commission, any case or cases should be pending before the umpire and awaiting his decision, it is understood and agreed by the two contracting parties, that the said umpire is authorized to proceed and make his decision or award in such case or cases; and upon his report thereof to each of the two governments, mentioning the amount of indemnity, if such shall have been allowed by him, such award shall be final and conclusive in the same manner as if it had been made by the commissioners under their own agreement; provided that said decision shall be made by said umpire within thirty days after the final adjournment of said commission, and at the expiration of the said thirty days, the power and authority hereby granted to said umpire shall cease.

ARTICLE IX

Each government shall pay its own commissioners and secretary, but the umpire shall be paid, one-half by the Government of the United States and one-half by the Republic of Peru.

ARTICLE X

The present convention shall be ratified and the ratifications thereof shall be exchanged in the term of four months from the date hereof.

In faith whereof, the respective plenipotentiaries have signed the same and affixed their respective seals.

Done in the city of Lima this twelfth day of January, in the year of our Lord one thousand eight hundred and sixty-three.

[Here follow signatures.]

No. 42

BOLIVIA—PERU

*Provision for general arbitration, in a treaty of peace and friendship.—
Signed at Lima, November 5, 1863*¹

ARTICLE XXVI

The Republics of Peru and Bolivia, in submission to their common social antecedents, to the demands of the present times, and to the principles that should reign among all the people of America, declare: that any disputes which may unfortunately arise between them, either from misunderstanding any of the articles of the present treaty, or from any other cause, shall not be decided by armed force. They declare that war shall not be the means of doing themselves justice, nor of forcing the fulfilment of this treaty, nor of those that may be henceforward concluded; and in case the good harmony which now exists, and which they will endeavor to preserve by all possible means, should unfortunately be interrupted, they shall send an explanatory statement containing the demands of the one against the other, and if by that means they should not obtain the due reparation, they agree

¹ English: *British and Foreign State Papers*, vol. LV, p. 842.

Spanish: Aranda, *Tratados del Perú*, vol. II, p. 309.

Ratified by Peru, January 20, 1865; ratifications exchanged at Lima, January 21, 1865. Modifications had been made by both powers in ratifying, but they did not affect the arbitral provision here quoted. The modifications were agreed to and specified in the exchange.

henceforth, to submit the decision of their differences to the arbitration of one of the governments of this or the other continent; and if they should not agree as to the choice of the arbitrator, each of the two republics shall name her own so that the two arbitrators may solve the difficulty and select an umpire who may, in case of discord, put an end to it.

The two high contracting parties solemnly bind themselves, under the guarantee of the national honor, to fulfil the resolution of the arbitrators without opposing any exception whatever.

No. 43

COLOMBIA—UNITED STATES

Supplementary convention for the arbitration of claims of citizens of the latter against the government of the former.—Signed at Washington, February 10, 1864¹

Whereas a convention for the adjustment of claims was concluded between the United States of America and the Republic of New Granada, in the city of Washington, on the tenth of September, 1857, which convention, as afterward amended by the contracting parties, was proclaimed by the President of the United States on the 8th November, 1860;

And whereas the joint commission organized under the authority conferred by the preceding mentioned convention did fail, by reason of uncontrollable circumstances, to decide all the claims laid before them under its provisions, within the time to which their proceedings were limited by the 4th article thereof;

The United States of America and the United States of Colombia, the latter representing the late Republic of New Granada, are desirous that the time originally fixed for the duration of the commission should be so extended as to admit the examination and adjustment of such claims as were presented to but not settled by the joint commission aforesaid, and to this end have named plenipotentiaries to agree upon the best mode of accomplishing this object, that is to say: The

¹ English: *United States Statutes at Large*, vol. 13, p. 685.

Spanish: *Tratados Públicos de Colombia* (1884), p. 81.

For the convention of September 10, 1857, to which this was supplementary, see No. 28, *ante* p. 37.

Ratified by the United States, July 9, 1864; time for exchanging ratifications extended by United States Senate, June 25, 1864; ratifications exchanged at Washington, August 19, 1865. See footnote to No. 28, *ante*, p. 37.

President of the United States of America, William H. Seward, Secretary of State of the United States of America, and the President of the United States of Colombia, Señor Manuel Murillo, Envoy Extraordinary and Minister Plenipotentiary of the United States of Colombia;

Who, having exchanged their full powers, have agreed as follows:

ARTICLE I

The high contracting parties agree that the time limit in the convention above referred to for the termination of the commission, shall be extended for a period not exceeding nine months from the exchange of ratifications of this convention, it being agreed that nothing in this article contained shall in any other wise alter the provisions of the convention above referred to; and that the contracting parties shall appoint commissioners anew, and an umpire shall be chosen anew, in the manner and with the duties and powers respectively expressed in the said former convention.

ARTICLE II

The present convention shall be ratified, and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof the respective plenipotentiaries have signed the same, and have hereunto affixed their seals.

Done at Washington this tenth day of February, in the year of our Lord one thousand eight hundred and sixty-four.

Here follow signatures.]

No. 44

SALVADOR—UNITED STATES

Arrangement for the arbitration of the "Savage Claim."—Signed at San Salvador, May 4, 1864¹

¹ Repeated efforts to obtain the text of this arrangement have been unsuccessful. La Fontaine, *Pasicrisie internationale*, p. 617, says: "*Ni le compromis, ni la sentence n'ont été publiés.*" The Department of State has reported that it could not supply the text. There may have been no treaty or even diplomatic settlement. It was not strictly an international arbitration; but was merely an arrangement between the Salvadorian Government and a citizen of the United States effected through the mediation of Mr. Partridge the United States Minister to Salvador. The cause of the dispute is succinctly stated by Darby, *International Tribunals* (1904), p. 789, as follows: "A claim was made on behalf of Mr. Henry Savage a citizen of the United States, who had imported into Salvador, in September, 1857 [1851?] a certain quantity of gunpowder, with the cognizance of the authorities, who

No. 45

HONDURAS—NICARAGUA

Provision for general arbitration, in a treaty of peace, friendship, and commerce.—Signed at León, December 16, 1865¹

ARTICLE II

Both republics agree that in no case shall there be war between them; and should any difference arise, proper explanations shall first be given, recourse being had, eventually, failing mutual agreement, to the arbitration of the government of some friendly nation.

No. 46

UNITED STATES—VENEZUELA

Provision for the arbitration of pending claims of citizens of the former against the government of the latter.—Signed at Carácas, April 25, 1866²

The conclusion of a convention similar to those entered into with other republics, and by which the pending American claims upon Venezuela might be referred for decision to a mixed commission and an umpire, having been proposed to the Venezuelan Government on behalf of the United States of America, as a means of examining and justly terminating such claims; and it having been thought that the adoption of the contemplated course will secure at least some of the advantages attending arbitration, so strongly recommended in Article

in 1852 issued a decree making the sale of gunpowder a government monopoly." Moore, *International Arbitrations*, vol. II, pp. 1855–57, gives a full explanation showing that the government refused to purchase the unsold portion of Mr. Savage's stock except at a ruinous price, and in conclusion says that the United States Minister "reported that he had received a letter from Mr. Savage expressing his satisfaction with the disposition of the government to submit the case to arbitration. Soon afterward Mr. Savage, at Mr. Partridge's request, visited San Salvador, and an agreement was made with the Government of San Salvador to submit the claim to arbitration in Guatemala on June 1, 1864. An agreement to that effect was signed May 4 in triplicate, one of the copies being retained in the legation at San Salvador. Of the other copies one was retained by the Salvadorian Government, while the other was sent with the papers in the case to the United States legation in Guatemala. Mr. Partridge's proceedings were approved." Moore cites as his authority manuscripts in the Department of State.

¹ Spanish: Bonilla, *Tratados Internacionales de Nicaragua*, p. 110.

Ratified by Nicaragua, February 12, 1866; ratifications exchanged at León, March 5, 1866. The arbitral clause is also found in *Tratados de Arbitraje de Nicaragua*, p. 111.

² English and Spanish: *United States Statutes at Large*, vol. 16, p. 713.

See supplementary convention of December 5, 1885, No. 100, *post*, p. 147.

Ratified by the United States, August 8, 1866; ratifications exchanged [at Carácas?], April 17, 1867.

112 of the Federal Constitution of Venezuela, while it will preserve unimpaired, as reciprocally desired, the good understanding of both nations: The Citizen First Vice President in charge of the Presidency has accepted the above proposal, and authorized the Minister for Foreign Relations to negotiate and sign the proper convention. Thereupon said Minister and Mr. E. D. Culver, Minister Resident of the United States of America, also duly empowered for that purpose, have agreed upon the following articles of convention:

ARTICLE I

All claims on the part of corporations, companies, or individuals, citizens of the United States, upon the Government of Venezuela, which may have been presented to their government, or to its legation in Carácas, shall be submitted for examination and decision to a mixed commission, consisting of two members, one of whom shall be appointed by the Government of the United States, and the other by that of Venezuela. In case of death, absence, resignation, or incapacity of either of the commissioners, or in the event of either of them omitting or ceasing to act, the Government of the United States or that of Venezuela, respectively, or the Minister of the United States in Carácas, by authority of his government, shall forthwith proceed to fill the vacancy.

The commissioners so named shall meet in the city of Carácas within four months from the exchange of the ratifications of this convention; and, before proceeding to business, they shall make solemn oath that they will carefully examine and impartially decide according to justice, and in compliance with the provisions of this convention, all claims submitted to them, and such oath shall be entered on the record of their proceedings.

The commissioners shall then proceed to appoint an umpire to decide upon any case or cases concerning which they may disagree, or upon any point of difference that may arise in the course of their proceedings. And if they can not agree in the selection, the umpire shall be named by the diplomatic representative either of Switzerland or of Russia, in Washington, on the previous invitation of the high contracting parties.

ARTICLE II

So soon as the umpire shall have been appointed, the commissioners shall proceed, without delay, to examine the claims which may be presented to them under this convention; and they shall,

if required, hear one person in behalf of each government on every separate claim. Each government shall furnish, on request of either commissioner, all such documents and papers in its possession, as may be deemed important to the just determination of any claim.

In cases where they agree to award an indemnity, they shall determine the amount to be paid, and issue certificates of the same. In cases when the commissioners can not agree, the points of difference shall be referred to the umpire, before whom each of the commissioners may be heard, and whose decision shall be final.

The commissioners shall make such decision as they shall deem, in reference to such claims, conformable to justice, even though such decisions amount to an absolute denial of illegal pretensions, since the including of any such in this convention is not to be understood as working prejudice in favor of any one, either as to principles of right or matters of fact.

ARTICLE III

The commissioners shall issue certificates of the sums to be paid to the claimants, respectively, by virtue of their decisions or those of the umpire, and the aggregate amount of all sums awarded by the commissioners, and of all sums accruing from awards made by the umpire, shall be paid to the Government of the United States. Payments of said sums shall be made in equal annual payments, to be completed within ten years from the date of the termination of the labors of the commission; the first payment to be made six months from same date. Semiannual interest shall be paid on the several sums awarded at a rate of five per cent per annum from the date of the termination of the labors of the commission.

ARTICLE IV

The commission shall terminate its labors in twelve months from the date of its organization, except that thirty days' extension may be given to issue certificates, if necessary, on the decisions of the umpire in the case referred to in the following article. They shall keep a record of their proceedings, and may appoint a secretary.

ARTICLE V

The decisions of this commission and those (in case there may be any) of the umpire, shall be final and conclusive as to all pending claims at the date of their installation. Claims which shall not be

presented within the twelve months herein prescribed will be disregarded by both governments, and considered invalid.

In the event that, upon the termination of the labors of said commission, there should remain pending one or more cases before the umpire awaiting his decision, the said umpire is authorized to make his decision and transmit same to the commissioners, who shall issue their certificates thereupon and communicate [them] to each government, which shall be held binding and conclusive; provided, however, that his decision shall be given within thirty days from the termination of the labors of the commission, and after the expiration of the said thirty days any decision made shall be void and of no effect.

ARTICLE VI

Each government shall pay its own commissioner, and shall pay one half of what may [be] due the umpire and secretary, and one half of the incidental expenses of the commission.

ARTICLE VII

The present convention shall be ratified, and the ratifications exchanged, so soon as may be practicable, in the city of Carácas.

In testimony whereof the plenipotentiaries have signed this convention, and hereunto affixed the seals of the Ministry of Foreign Relations of the United States of Venezuela, and of the Legation of the United States of America, in Carácas, this twenty-fifth day of April, in the year one thousand eight hundred and sixty-six.
[Here follow signatures.]

No. 47

NICARAGUA—SALVADOR

*Provision for general arbitration, in a treaty of friendship, commerce, and extradition.—Signed at San Salvador, March 17, 1868*¹

ARTICLE II

The two republics agree that in no case shall there be war between them; and should any difference arise, the proper explanations shall

¹ Spanish: Bonilla, *Tratados Internacionales de Nicaragua*, p. 282.

Ratified by Nicaragua, February 12, 1869; proclaimed by the president of Nicaragua, March 17, 1869, and communicated to the prefects of departments on June 15, 1869, with the statement appended: "ratifications having been exchanged (*estando canjeadas las ratificaciones*)."

first be given, recourse being had, eventually, failing mutual agreement, to the arbitration of the government of some friendly nation.

No. 48

MEXICO—UNITED STATES

Convention for the arbitration of all pending claims of the citizens of either against the government of the other.—Signed at Washington, July 4, 1868¹

Whereas it is desirable to maintain and increase the friendly feelings between the United States and the Mexican Republic, and so to strengthen the system and principles of republican government on the American continent; and whereas since the signature of the treaty of Guadalupe Hidalgo, of the second of February, 1848, claims and complaints have been made by citizens of the United States, on account of injuries to their persons and their property by authorities of that republic, and similar claims and complaints have been made on account of injuries to the persons and property of Mexican citizens by authorities of the United States, the President of the United States of America and the President of the Mexican Republic have resolved to conclude a convention for the adjustment of the said claims and complaints, and have named as their plenipotentiaries, the President of the United States, William H. Seward, Secretary of State; and the President of the Mexican Republic, Matias Romero, accredited as Envoy Extraordinary and Minister Plenipotentiary of the Mexican Republic to the United States; who, after having communicated to each other their respective full powers, found in good and due form, have agreed to the following articles:

ARTICLE I

All claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the Government of the Mexican Republic, arising from injuries to their persons or property

¹ English: Malloy, *Treaties and Conventions of the United States*, vol. i, p. 1128.

Spanish: *Tratados Concluidos y Ratificados por México*, (1878), p. 283. An English text follows the Spanish.

See, *post*, the following supplementary conventions: April 19, 1871, No. 56, p. 87; November 27, 1872, No. 61, p. 95; November 20, 1874, No. 69, p. 103; and April 29, 1876, No. 73, p. 110.

Ratified by Mexico, December 26, 1868; ratified by the United States, January 25, 1869; ratifications exchanged at Washington, February 1, 1869.

by authorities of the Mexican Republic, and all claims on the part of corporations, companies, or private individuals, citizens of the Mexican Republic, upon the Government of the United States, arising from injuries to their persons or property by authorities of the United States, which may have been presented to either government for its interposition with the other since the signature of the treaty of Gaudalupe Hidalgo between the United States and the Mexican Republic of the second of February, 1848, and which yet remain unsettled, as well as any other such claims which may be presented within the time hereinafter specified, shall be referred to two commissioners, one to be appointed by the President of the United States, by and with the advice and consent of the Senate, and one by the President of the Mexican Republic. In case of the death, absence, or incapacity of either commissioner, or in the event of either commissioner omitting or ceasing to act as such, the President of the United States or the President of the Mexican Republic, respectively, shall forthwith name another person to act as commissioner in the place or stead of the commissioner originally named.

The commissioners so named shall meet at Washington within six months after the exchange of the ratifications of this convention, and shall, before proceeding to business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide, to the best of their judgment, and according to public law, justice, and equity, without fear, favor, or affection to their own country, upon all such claims above specified as shall be laid before them on the part of the Governments of the United States and of the Mexican Republic, respectively; and such declaration shall be entered on the record of their proceedings.

The commissioners shall then name some third person to act as an umpire in any case or cases on which they may themselves differ in opinion. If they should not be able to agree upon the name of such third person, they shall each name a person, and in each and every case in which the commissioners may differ in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be umpire in that particular case. The person or persons so to be chosen to be umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall already have been made and subscribed by the commissioners, which shall be entered on the record of their proceedings. In the event of the death, absence,

or incapacity of such person or persons, or of his or their omitting, or declining, or ceasing to act as such umpire, another and different person shall be named, as aforesaid, to act as such umpire, in the place of the person so originally named, as aforesaid, and shall make and subscribe such declaration as aforesaid.

ARTICLE II

The commissioners shall then conjointly proceed to the investigation and decision of the claims which shall be presented to their notice, in such order and in such manner as they may conjointly think proper, but upon such evidence or information only as shall be furnished by or on behalf of their respective governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of their respective governments in support of, or in answer to any claim, and to hear, if required, one person on each side on behalf of each government on each and every separate claim. Should they fail to agree in opinion upon any individual claim, they shall call to their assistance the umpire whom they may have agreed to name, or who may be determined by lot, as the case may be; and such umpire, after having examined the evidence adduced for and against the claim, and after having heard, if required, one person on each side as aforesaid, and consulted with the commissioners, shall decide thereupon finally and without appeal. The decision of the commissioners and of the umpire shall be given upon each claim in writing, shall designate whether any sum which may be allowed shall be payable in gold or in the currency of the United States, and shall be signed by them respectively. It shall be competent for each government to name one person to attend the commissioners as agent on its behalf, to present and support claims on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The President of the United States of America and the President of the Mexican Republic hereby solemnly and sincerely engage to consider the decision of the commissioners conjointly, or of the umpire, as the case may be, as absolutely final and conclusive upon each claim decided upon by them or him, respectively, and to give full effect to such decisions without any objection, evasion, or delay whatsoever.

It is agreed that no claim arising out of a transaction of a date

prior to the second of February, 1848, shall be admissible under this convention.

ARTICLE III

Every claim shall be presented to the commissioners within eight months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners, or of the umpire in the event of the commissioners differing in opinion thereupon, and then and in any such case the period for presenting the claim may be extended to any time not exceeding three months longer.

The commissioners shall be bound to examine and decide upon every claim within two years and six months from the day of their first meeting. It shall be competent for the commissioners conjointly, or for the umpire if they differ, to decide in each case whether any claim has or has not been duly made, preferred, and laid before them, either wholly or to any and what extent, according to the true intent and meaning of this convention.

ARTICLE IV

When decisions shall have been made by the commissioners and the arbiter in every case which shall have been laid before them, the total amount awarded in all the cases decided in favor of the citizens of the one party shall be deducted from the total amount awarded to the citizens of the other party, and the balance, to the amount of three hundred thousand dollars, shall be paid at the city of Mexico or at the city of Washington, in gold or its equivalent, within twelve months from the close of the commission, to the government in favor of whose citizens the greater amount may have been awarded, without interest or any other deduction than that specified in Article VI of this convention. The residue of the said balance shall be paid in annual instalments to an amount not exceeding three hundred thousand dollars, in gold or its equivalent, in any one year until the whole shall have been paid.

ARTICLE V

The high contracting parties agree to consider the result of the proceedings of this commission as a full, perfect, and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred,

or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred, and henceforth inadmissible.

ARTICLE VI

The commissioners and the umpire shall keep an accurate record and correct minutes of their proceedings, with the dates. For that purpose they shall appoint two secretaries versed in the language of both countries to assist them in the transaction of the business of the commission. Each government shall pay to its commissioner an amount of salary not exceeding forty-five hundred dollars a year in the currency of the United States, which amount shall be the same for both governments. The amount of compensation to be paid to the umpire shall be determined by mutual consent at the close of the commission, but necessary and reasonable advances may be made by each government upon the joint recommendation of the commission. The salary of the secretaries shall not exceed the sum of twenty-five hundred dollars a year in the currency of the United States. The whole expenses of the commission, including contingent expenses, shall be defrayed by a ratable deduction on the amount of the sums awarded by the commission, provided always that such deduction shall not exceed five per cent on the sums so awarded. The deficiency, if any, shall be defrayed in moieties by the two governments.

ARTICLE VII.

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof, and by the President of the Mexican Republic, with the approbation of the Congress of that Republic; and the ratifications shall be exchanged at Washington within nine months from the date hereof, or sooner if possible.

In witness whereof the respective plenipotentiaries have signed the same, and have affixed thereto the seals of their arms.

Done at Washington, the fourth day of July, in the year of our Lord one thousand eight hundred and sixty-eight.

[Here follow signatures.]

No. 49

ARGENTINA—BOLIVIA

Provision for the arbitration of disputes concerning boundaries.—Signed at Buenos Aires, July 9, 1868¹

ARTICLE XIX

The contracting parties undertake to employ all pacific and conciliatory measures, in the most fraternal manner, to adjust any questions or differences which may arise between them, and if, unfortunately, war should break out, hostilities will not commence between the countries without previous reciprocal notification six months before a rupture, accompanied by a manifesto indicating the causes of the declaration of war. The question of boundaries will never be a question of war, but of friendly convention or of arbitration. . . .

No. 50

COSTA RICA—NICARAGUA

Provision for general arbitration, in a treaty of peace and friendship.—Signed at San José, July 30, 1868²

ARTICLE I

There shall be constant peace and sincere and perpetual friendship between the Republic of Nicaragua and the Republic of Costa Rica.

¹ English: *British and Foreign State Papers*, vol. LXXII, p. 607.

Spanish: *Tratados de la Argentina*, vol. II, p. 89.

See supplementary agreement of February 27, 1869, No. 53, *post*, p. 83.

Ratifications exchanged at Buenos Aires, September 24, 1869. The treaty had been approved in its entirety by the Constituent Assembly of Argentina. But the Bolivian Legislative Assembly had approved it subject to a new understanding that should either modify or cancel Article XX, which made more specific recommendations for the settlement of the boundary through arbitration in case an understanding on any point should not be reached by negotiation. When the negotiators met on February 27, 1869, to consider the proposed modification or cancellation of Article XX, they decided to cancel it; and made a separate agreement to enter into negotiations on the subject after the conclusion of the existing war with Paraguay, in which Argentina was engaged, affirming their determination to submit the disputed points to arbitration. This treaty of July 9, 1868, thus modified was again approved and the ratifications exchanged, as above stated, the year originally allowed for the exchange, which had expired, having been extended for another year if it should be found necessary.

² English: *British and Foreign State Papers*, vol. LXX, p. 258.

Spanish: *Tratados Internacionales de Costa Rica* (1892), p. 233.

Ratified by Nicaragua, August 24, 1868; ratified by Costa Rica, August 28, 1868; ratifications exchanged at San José, June 10, 1869. In the acts of ratification the legislative bodies of both countries made modifications, which, however, did not affect the arbitral provision. For the Nicaraguan ratification see Bonilla, *Tratados Internacionales de Nicaragua*, p. 380, following the text of the treaty. The arbitral provision is found in *Tratados de Arbitraje de Nicaragua*, p. 125; and Wiesse, *Tratados de Arbitramiento*, p. 55.

ARTICLE II

Consequently the said republics shall never in any case make war upon each other. Should any difference arise between them, they shall at first furnish each other the proper explanations, and if these do not suffice to settle the difficulties and restore a good understanding, they shall resort in any eventuality to the arbitration of the government of a friendly nation.

No. 51

CHILE—PERU

*Arrangement for the arbitration of the claim of a citizen of the former against the government of the latter.—Signed at Lima, October 31, 1868*¹

Having met in the Ministry of Foreign Relations of Peru, the undersigned, José Antonio Barrenechea, Minister of that Department, and Joaquín Godoy, Chargé d'Affaires of Chile, with the object of taking into consideration the pending claim of the Chilean citizen, Mr. Samuel Langshaw; and bearing in mind that the Superior Court of Justice of Lima has declared void the decision pronounced by the arbitrators, appointed November 7, 1866, to decide the said claim, for the reason that the said arbitrators failed to take oath thereby making void their decision, have agreed upon the nomination of new arbitrators, two on the part of the Peruvian Government and two on the part of Langshaw, in order that as arbitrators, and friendly mediators they may proceed *ex aequo et bono*, and first taking the oath required by law, to make their decision, determining the indemnification due in consequence of the said claim, on the merits of the case as shown in the record already made. The said arbitrators on their part, before beginning the exercise of their functions, shall choose an umpire who shall likewise take the legal oath. The decision which may be rendered by the arbitrators, or umpire as the case may be, shall be final, considered as a sentence passed on authority of *res adjudicata*, without either of the parties being able to interpose

¹ Spanish: Manuscript sent from the foreign office of Peru.

Strictly speaking this is not an international arbitration, but an arrangement between the Peruvian Government and a Chilean claimant through the mediation of the Chilean diplomatic representative at Lima. Not being a treaty, it made no provision for ratification or exchange. It is, however, a recognition of the principle of arbitration in international relations.

against it the plea of nullity, appeal, or any other ordinary or extraordinary plea, and it shall be pronounced within a month from the day on which the umpire takes his oath, the arbitrators being permitted to prolong this period by thirty days if one month should be insufficient. The Government of Peru, on its part, names as arbitrators a member of the Superior Court of Justice of Moquegua, Dr. Pedro Carbajal, and Dr. Emilio del Solar; and the Chargé d'Affaires of Chile, in representation of Langshaw, Mr. Frederico Ford and Mr. Max Banks. The Minister for Foreign Relations shall notify Congress of this convention in order that the amount which, in virtue of the arbitral decision, may be recognized as due to Langshaw may be included in the general budget.

With which the conference ended and the undersigned signed the present protocol in duplicate at Lima, October 31, 1868.

[Here follow signatures.]

No. 52

PERU—UNITED STATES

*Convention for the arbitration of all claims of the citizens of either against the government of the other.—Signed at Lima, December 4, 1868*¹

Whereas claims may have, at various times since the signature of the decisions of the mixed commission which met in Lima in July, 1863, been made upon the Government of the United States of America, by the citizens of Peru, and have been made by citizens of the United States of America on the Government of Peru; and whereas some of such claims are still pending: The President of the United States of America and the President of Peru, being of opinion that a speedy and equitable settlement of all such claims will contribute much to the maintenance of the friendly feelings which subsist between the two countries, have resolved to make arrangements for that purpose by means of a convention, and have named as their plenipotentiaries to confer and agree thereupon, that is to say:

The President of the United States names Alvin P. Hovey, Envoy Extraordinary and Minister Plenipotentiary of the United States of

¹ English: *United States Statutes at Large*, vol. 16, p. 751.

Spanish: Aranda, *Tratados del Perú*, vol. vii, p. 419.

Ratified by the United States, May 3, 1869; ratified by Peru, June 4, 1869; ratifications exchanged at Lima, June 4, 1869.

America near the Government of Peru; and the President of Peru names His Excellency Doctor Don José Antonio Barrenechea, Minister of Foreign Affairs of Peru;

Who, after having communicated to each other their respective full powers, found in good and true form, have agreed as follows:

ARTICLE I

The high contracting parties agree that all claims on the part of corporations, companies, or private individuals, citizens of the United States, upon the Government of Peru, and all claims on the part of corporations, companies, or private individuals, citizens of Peru, upon the Government of the United States, which may have been presented to either government for its interposition since the sittings of the said mixed commission, and which remain yet unsettled, as well as any other claims which may be presented within the time specified in Article III hereinafter, shall be referred to the two commissioners, who shall be appointed in the following manner, that is to say: One commissioner shall be named by the President of the United States, and one by the President of Peru. In case of the death, absence, or incapacity of either commissioner, or in the event of either commissioner omitting or ceasing to act as such, the President of the United States or the President of Peru, respectively, shall forthwith name another person to act as commissioner in the place or stead of the commissioner already named. The commissioners so named shall meet at Lima at their earliest convenience after they have been respectively named, not to exceed three months from the ratification of this convention, and shall, before proceeding to any business, make and subscribe a solemn declaration that they will impartially and carefully examine and decide to the best of their judgment, and according to justice and equity, without fear, favor, or affection to their own country, upon all such claims as shall be laid before them on the part of the Governments of the United States and Peru, respectively, and such declarations shall be entered on the record of the commission.

The commissioners shall then, and before proceeding to other business, name some third person of some third nation to act as an arbitrator or umpire in any case or cases on which they may themselves differ in opinion. If they should not be able to agree upon the name of such third person, they shall each name a person of a third nation, and in each and every case in which the commissioners may differ

in opinion as to the decision which they ought to give, it shall be determined by lot which of the two persons so named shall be the arbitrator or umpire in that particular case. The person or persons so to be chosen to be arbitrator or umpire shall, before proceeding to act as such in any case, make and subscribe a solemn declaration in a form similar to that which shall have already been made and subscribed by the commissioners, which shall be entered upon the records of their proceedings. In the event of the death, absence, or incapacity of such person or persons, or of his or their omitting or declining, or ceasing to act as such arbitrator or umpire, another and different person shall be named as aforesaid to act as such arbitrator or umpire in the place and stead of the person so originally named as aforesaid, and shall make and subscribe such declaration as aforesaid.

ARTICLE II

The commissioners shall then forthwith proceed to the investigation of the claims which shall be presented to their notice. They shall investigate and decide upon such claims in such order and in such manner as they may conjointly think proper, but upon such evidence or information as shall be furnished by or on behalf of their respective governments. They shall be bound to receive and peruse all written documents or statements which may be presented to them by or on behalf of their respective governments, in support of or in answer to any claim, and to hear, if required, one person on each side on behalf of each government as counsel or agent for such government, on each and every separate claim. Should they fail to agree in opinion on any individual claim, they shall call to their assistance the arbitrator or umpire whom they have agreed to name, or who may be determined by lot, as the case may be, and such arbitrator or umpire, after having examined the evidence adduced for and against the claim, and after having heard, as required, one person on each side, as aforesaid, and consulted with the commissioners, shall decide thereupon finally and without appeal. The decision of the commissioners and of the arbitrator or umpire shall be given upon each claim in writing, and shall be signed by them respectively. It shall be competent for each government to name one person to attend the commissioners as agent on its behalf, and to answer claims made upon it, and to represent it generally in all matters connected with the investigation and decision thereof.

The President of the United States, and the President of Peru, hereby solemnly and sincerely engage to consider the decision of the commissioners conjointly, or of the arbitrator or umpire, as the case may be, as absolutely final and conclusive upon each claim decided upon by them or him, respectively, and to give full effect to such decisions, without any objections, evasion, or delay whatsoever. It is agreed that no claim arising out of any transaction of a date prior to the 30th of November, 1863, shall be admissible under this convention.

ARTICLE III

Every claim shall be presented to the commissioners within two months from the day of their first meeting, unless in any case where reasons for delay shall be established to the satisfaction of the commissioners, or of the arbitrator or umpire, in the event of the Commissioners differing in opinion thereon, and then and in every such case the period for presenting the claim may be extended to any period not exceeding one month longer.

The commissioners shall be bound to examine and decide upon every claim within six months from the day of their first meeting.

ARTICLE IV

All sums of money which may be awarded by the commissioners, or by the arbitrator or umpire, on account of any claim, shall be paid by the one government to the other, as the case may be, within four months after the date of the decision, without interest, and without any deduction, save as specified in Article VI, hereinafter.

ARTICLE V

The high contracting parties agree to consider the result of the proceedings of this commission as a full, perfect, and final settlement of every claim upon either government arising out of any transaction of a date prior to the exchange of the ratifications of the present convention; and further engage that every such claim, whether or not the same may have been presented to the notice of, made, preferred, or laid before the said commissioners, shall, from and after the conclusion of the proceedings of the said commission, be considered and treated as finally settled, barred, and therefore inadmissible.

ARTICLE VI

The salaries of the commissioners shall not exceed forty-five hundred dollars in United States gold coin each, yearly. Those of the

secretaries and arbitrator or umpire shall be determined by the commissioners; and in case the said commission finish its labors in less than six months, the commissioners, together with their assistants, will be entitled to six months' pay, and the whole expenses of the commission shall be defrayed by a ratable deduction on the amount of the sums awarded by the commissioners, provided always that such deduction shall not exceed the rate of five per cent on the sums so awarded. The deficiency, if any, shall be defrayed by the two governments in moieties.

ARTICLE VII

The present convention shall be ratified by the President of the United States, by and with the consent of the Senate thereof, and by the President of Peru, with the approbation of the Congress of that Republic, and the ratifications will be exchanged in Lima, as soon as may be, within six months of the date hereof.

ARTICLE VIII

The high contracting parties declare that this convention shall not be considered as a precedent obligatory on them, and that they remain in perfect liberty to proceed in the manner that may be deemed most convenient regarding the diplomatic claims that may arise in the future.

In witness whereof the respective plenipotentiaries have signed the same in the English and Spanish languages, and have affixed thereto the seals of their arms.

Done in Lima the fourth day of December, in the year of our Lord one thousand eight hundred and sixty-eight.
[Here follow signatures.]

No. 53

ARGENTINA—BOLIVIA

Provision for the arbitration of boundary questions.—Signed at Buenos Aires, February 27, 1869¹

The Minister for Foreign Affairs then proposed to Señor Quevedo the adoption of another formula, which would set out the same objects

¹ English: *British and Foreign State Papers*, vol. LXX, p. 610.

Spanish: *Tratados de la Argentina*, vol. II, p. 96.

Supplementary to treaty of July 9, 1868, No. 49, *ante*, p. 77.

The exchange on September 24, 1869, of the ratifications of the treaty of July 9, 1868, with the modifications effected by this protocol of February 27, 1869, rendered the ratification and exchange of the latter unnecessary.

in more concise terms, and would fix in one sole stipulation the manner in which all the boundary questions between the Argentine Republic and that of Bolivia should be decided; it was expressed in the following terms:

The boundary question will be settled by a special convention on the termination of the war with Paraguay; any difficulties which may arise, and on which an agreement can not be arrived at between the contracting parties, to be referred to the arbitration of a friendly power.

This proposition being accepted, the two ministers agreed to declare cancelled Article XX of the treaty of friendship, commerce, and navigation—this treaty being thus reduced to the other twenty-one articles as literally set out in it—and that the boundary convention shall be negotiated on the conclusion of the war with Paraguay, in accordance with the basis above enunciated.

No. 54

COLOMBIA—PERU

*Provision for general arbitration, in a treaty of friendship, commerce, and navigation.—Signed at Lima, February 10, 1870*¹

ARTICLE XXXII

The two republics agree that if the friendly relations between them should, unfortunately, be interrupted, they will not appeal to arms until negotiation shall have been exhausted, and all hopes of obtaining, by that means, due satisfaction shall have been lost.

Should this case arise, the government deeming itself aggrieved shall, after setting forth its reasons, and after vainly seeking a just settlement, draw up a manifesto stating its grounds of complaint, which it will deliver at the office for foreign affairs of the government to whom the offense is imputed, and announce its intention to submit the affair to the decision of a third party (to be selected from amongst five governments which it shall designate) if, within the term of six months, reckoned from the day on which the manifesto shall have been presented, no satisfactory explanation of the point or points which form the subject of complaint shall have been afforded.

¹ English: *British and Foreign State Papers*, vol. LX, p. 356.

Spanish: Aranda, *Tratados del Perú*, vol. III, p. 286.

Ratified by Peru February 15, 1873; ratifications exchanged at Lima, March 3, 1873. No limit was placed in the treaty on the time for its ratification or exchange, except that the latter was to be effected as soon as possible (*dentro del mas breve término posible*).

The government to whom the offense is imputed must return an answer within the said term of six months, and conclude its explanation by designating one of the five governments proposed as arbitrators.

If the aggrieved government should not be satisfied with the explanation of the other, the two shall address themselves to the party chosen as arbitrator, and submit to it, together with the necessary documents, the matter on which its decision is desired.

If the accused government should evade the proposal of arbitration, or the nomination of an arbitrator, the arbitrator shall be chosen by the offended party from among the five governments which it originally proposed.

In general, in all cases of controversy in which the two contracting parties may not be able to arrive at any settlement by diplomatic means, they shall have recourse to an arbitrator for a peaceful and definitive arrangement of their differences, and neither of them shall declare war or authorize acts of reprisal against the other, except in the event of a refusal to submit to the decision of a friendly power, or to fulfil the sentence which may be issued.

No. 55

BRAZIL—UNITED STATES

*Protocol arranging for the arbitration of a claim of citizens of the latter against the government of the former.—Signed at Rio de Janeiro, March 14, 1870*¹

Whereas the Government of the United States have claimed of the Government of His Imperial Majesty the Emperor of Brazil the payment of a certain compensation to the owners of the United States whaleship *Canada*, which is alleged by the Government of the United States to be justly due to the said owners by the Government of His Imperial Majesty; and whereas the Government of His Imperial Majesty deny their liability to make such payment by reason of any of the alleged causes set forth by the Government of the United States; and whereas both parties being animated by a friendly feeling, and each desiring to make an amicable settlement of the said cause of

¹ English: Moore, *International Arbitrations*, vol. v, p. 4687.

Portuguese: *Relatorio da Repartição dos Negocios Estrangeiros*, Anexo I, numero 180, p. 249.

Neither ratifications nor their exchange were provided for in the agreement.

difference, have agreed to refer the same to the arbitration of Edward Thornton, Esq., Commander of the Bath, the Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty at Washington: For this purpose it now becomes necessary to place on record certain terms and arrangements, with a view of obtaining a speedy and convenient hearing and determination of the matters to be submitted; and the undersigned, Henry T. Blow, Envoy Extraordinary and Minister Plenipotentiary of the United States near the court of His Imperial Majesty, and the Baron de Cotegepe, Minister and Secretary of State for the Marine Department in charge of the foreign affairs, being duly authorized by their respective governments, have agreed as follows:

ARTICLE I

The claim of the Government of the United States against the Government of Brazil for compensation to the owners of the United States whaleship *Canada*, and of the cargo thereof, shall be submitted to the arbitration and award of Edward Thornton, Esq., Commander of the Bath, the Envoy Extraordinary and Minister Plenipotentiary of Her Britannic Majesty at Washington.

ARTICLE II

The award of the said arbitrator shall be considered as absolutely final and conclusive, and full effect shall be given thereto without any objection, evasion, or delay whatsoever. Such decision shall be given in writing and dated. It shall be in whatsoever form the arbitrator shall choose to adopt. It shall be delivered to the minister or other public agent of His Imperial Majesty who may be actually in the United States and to the Secretary of State at Washington, and shall be considered as operative from the date of the delivery thereof.

ARTICLE III

The written or printed case of each of the two parties, with the documents, correspondence and evidence on which each relies in support of the same, shall be laid before the arbitrator at Washington on or before the first day of June next, and the arbitrator shall decide the questions so submitted to him upon such case, documents, correspondence and evidence.

ARTICLE IV

The Secretary of State of the United States and the minister or other public representative of His Imperial Majesty actually in the

United States, shall be considered as the agents of their respective governments, to whom the arbitrator shall address notices and whose acts shall bind their respective governments.

ARTICLE V

The arbitrator may employ a clerk for the purposes of the arbitration at such rate of remuneration as he shall think proper. This and all other expenses of the arbitration shall be repaid in two equal portions, one by each of the two parties, as soon as the arbitrator renders an account of the same.

ARTICLE VI

Should the arbitrator decline to render any decision, everything done by virtue of this agreement shall be null and void and each government shall be at liberty to proceed as if no arbitration had been made.

Done at Rio de Janeiro the fourteenth day of March, in the year of our Lord one thousand eight hundred and seventy.

[Here follow signatures.]

No. 56

MEXICO—UNITED STATES

Supplementary convention for the arbitration of all pending claims of the citizens of either against the government of the other.—Signed at Mexico City, April 19, 1871¹

Whereas a convention was concluded on the fourth day of July, 1868, between the United States of America and the United States of Mexico, for the settlement of out-standing claims that have originated since the signing of the treaty of Guadalupe Hidalgo, on the second of February, 1848, by a mixed commission limited to endure for two years and six months from the day of the first meeting of the commissioners; and whereas doubts have arisen as to the practicability of the business of the said commission being concluded within the period assigned:

¹ English: *United States Statutes at Large*, vol. 17, p. 861.

Spanish: *Tratados y Convenciones Concluidos y Ratificados por México* (1878), p. 302.

Extension of time for the arbitration provided for in the convention of July 4, 1868, No. 48, *ante*, p. 72. See also Nos. 61, 69, and 73 *post*, pp. 95, 103, and 110.

Ratified by the United States, December 15, 1871; ratified by Mexico, January 16, 1872; ratifications exchanged [at Washington?], February 8, 1872.

The President of the United States of America and the President of the United States of Mexico are desirous that the time originally fixed for the duration of the said commission should be extended, and to this end have named plenipotentiaries to agree upon the best mode of effecting this object, that is to say: The President of the United States of America, Thomas H. Nelson, accredited as Envoy Extraordinary and Minister Plenipotentiary of the United States of America to the Mexican Republic; and the President of the United States of Mexico, Manuel Azpiroz, Chief Clerk and in charge of the Ministry of Foreign Relations of the United States of Mexico; who, after having presented their respective powers, and finding them sufficient and in due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that the term assigned in the convention of the fourth of July, 1868, above referred to, for the duration of the said commission, shall be extended for a time not exceeding one year from the day when the functions of the said commission would terminate according to the convention referred to, or for a shorter time if it should be deemed sufficient by the commissioners, or the umpire, in case of their disagreement.

It is agreed that nothing contained in this article shall in any wise alter or extend the time originally fixed in the said convention for the presentation of claims to the mixed commission.

ARTICLE II

The present convention shall be ratified, and the ratifications shall be exchanged at Washington, as soon as possible.

In witness whereof the above-mentioned plenipotentiaries have signed the same and affixed their respective seals.

Done in the city of Mexico the nineteenth day of April, in the year one thousand eight hundred and seventy-one.

[Here follow signatures.]

No. 57

CHILE—PERU

*Protocol for submitting to arbitration disputes concerning the expenses of the allied fleet.—Signed at Lima, September 27, 1871*¹

José J. Loayza, Minister of Foreign Affairs of Peru, and Adolfo Ibañez, Envoy Extraordinary and Minister Plenipotentiary of Chile, having met in conference, September 27, 1871, in the office of the Ministry of Foreign Relations of Peru, the latter expressed himself to the effect that, according to instructions and data forwarded by his government, he understood that the Peruvian and Chilean commissioners, who were entrusted with the liquidation of the accounts of the allied fleet, in accordance with the stipulations of the treaty of alliance of December 5, 1865, after having effected the major part of the said liquidation, had disagreed in the determination and settlement of various points and questions referring thereto; and that since the Governments of Peru and Chile had already agreed to submit the points in dispute to arbitration as the only just, legal and logical means of arriving at a result satisfactory and acceptable to both parties, and since it was only necessary to designate the person upon whom it would be proper to confer the function of arbitral judge, according to the laws of both countries, he had therefore suggested to Mr. Loayza, that they proceed by mutual agreement to the appointment in question.

Thereupon the Minister of Foreign Relations, Dr. D. José J. Loayza, on his part, began by expressing the great desire that had always animated the Government of Peru to settle the accounts of the alliance—a desire confirmed by the appointment of distinguished commissioners which it had accredited for that purpose to the Government of Chile, among them Sr. Masias, who bore, moreover, the character of special envoy, with full powers to settle that matter. He said that in view of the fact that the commissioners of the two republics had neglected to come to an agreement upon various matters regarding the apportionment of expenses, and particularly upon the

¹ Spanish: Aranda, *Tratados del Perú*, vol. iv, p. 110.

The protocol makes no provision for its ratification or exchange. The Peruvian executive's approval is given on p. 112 of Aranda. The Argentine Envoy to Chile declined the appointment of arbitrator conferred on him by the protocol, and the German Minister at Santiago was substituted; but he failed to get the consent of his government to serve, and Mr. Logan, the United States Minister at the same place, was appointed and rendered his decision. *Ibid.*, p. 112.

interpretation of the treaty of alliance whose stipulations must be followed in order to determine the basis of the liquidation, and had been unable to reach an adjustment, Sr. Masias had thought it necessary to come to an understanding with the Minister of Foreign Relations of Chile, who proposed arbitration by a third commissioner as the final means of arriving at a solution of the matter; and that in view of the fact that this contingency had not been foreseen in the instructions of the Peruvian envoy, the latter had transmitted the proposition to his government, which being desirous of giving a new proof of deference to the Government of Chile, had accepted the proposition and had given directions to its envoy to come to an agreement with this government and to proceed to the designation of the umpire. Moreover, he said that in view of the fact that the negotiations commenced for that purpose in the month of August last were interrupted because of matters which at that time occupied the Government of Chile in consequence of the changes which it had made in the personnel of its administration, and also because of the authority granted to Dr. Masias to return again to Peru, he would now be very happy to resume negotiations with Sr. Ibañez in order to bring about the arbitration proposed by Chile and accepted by Peru, which is to settle definitively a question in which both parties are equally interested.

Therefore, the two ministers have agreed upon the following:

1. The Governments of Peru and Chile duly represented, the first by the Minister of Foreign Relations of the Republic, and the second by the Envoy Extraordinary and Minister Plenipotentiary of Chile, appoint Sr. Félix Frias, Envoy Extraordinary and Minister Plenipotentiary of the Argentine Republic to Chile, judge arbitrator and friendly adjustor, so that in that capacity he may settle the questions now pending, upon which the Chilean and Peruvian commissioners appointed to settle the accounts of the allied fleet referred to in the treaty of alliance of December 5, 1865, were unable to reach a solution.
2. The umpire named may not only settle the said questions, but decide as well any other questions that now exist or that in the course of the judgment may arise in relation to the said liquidation, with power also to pass upon them definitively and, consequently, to determine the amount of the liability of either of the parties concerned, so that the judgment he may render shall have the force and authority of a *res judicata*, without appeal of any kind.
3. In conducting the arbitration and in reaching a decision the

arbitrator may adopt such procedure as he may deem best; but it shall be his duty to give notice to the Peruvian Minister resident in Chile, and to the Minister of Foreign Relations of that Republic or to the person whom the latter may delegate for that purpose, of the fact of having accepted the appointment, so that the parties may present such documents as may be in the interest of their respective rights and in conformity with the allegations already made by the commissioners, fixing to that end such period of time as they may think necessary.

4. The umpire designated is granted a period of one year in which to render the definitive award and settlement, and this period shall begin on the day on which he accepts his appointment and communicates that fact to the representatives of the parties concerned.

In faith of which they have signed and sealed the present protocol in duplicate.

[Here follow signatures.]

No. 58

BRAZIL—PARAGUAY

*Provision for arbitration of the losses suffered by citizens of the former in war with the latter, in the treaty of peace.—Signed at Asunción, January 9, 1872*¹

ARTICLE III

The Government of the Republic of Paraguay shall recognize as a debt of the Republic: First, the amount of indemnity for the expenses of the war which the Government of His Majesty the Emperor of Brazil has incurred, and the damage done to public property, which shall be fixed by the special convention, of which Article IV treats; secondly, the amount of damage and loss to the persons and citizens of the said state. This indemnity shall be fixed according to Article V.

¹ Portuguese: *Relatorio da Repartição dos Negocios Estrangeiros* (1872), p. 238.

Spanish: *Colección de Tratados Celebrados por la República del Paraguay* (1809), p. 3.

Ratifications exchanged at Rio de Janeiro, March 26, 1872.

On January 24, 1874, an additional agreement was entered into by means of a protocol defining some expressions in and removing some misunderstandings concerning the arbitral provisions of this treaty of January 9, 1872, especially the expression "damage and loss (*daños y perjuicios*) (*damnos e prejuizos*)" in the second clause of Article III with reference to its application to property in slaves and to interest on the original money value of lost property. The matter of the translation of the record of the case of each party into the language of the other was dispensed with because of the similarity between the Spanish and Portuguese languages.

ARTICLE IV

A special convention, which shall be concluded, at latest, within two years, shall fix fairly the *quantum* of indemnity of which the first number of the preceding article treats, on evidence of official documents; shall regulate the form of payment, and the rates of interest and sinking fund of capital; and shall specify the revenues which are to be applied to the payment.

ARTICLE V

Two months after the interchange of the ratifications of the present treaty, a mixed commission shall be appointed which shall be composed of two judges and two arbiters, to examine and liquidate the indemnities arising from the causes mentioned in the second number of Article III.

This commission shall assemble in the cities of Rio de Janeiro or of Asunción, as the two governments shall agree.

In case of divergent opinions between the judges, one of the arbiters shall be chosen by lot, and he shall decide the question. Should it happen (which is not to be expected) that one of the high contracting parties, from any motive whatever, fails to appoint his commissioner and arbiter within the time above specified; or after appointing them, if it be necessary to supply a substitute, does not do this within the said time, the commissioner and the arbiter of the other contracting party shall proceed to examine and liquidate the respective claims, and to their decisions the government shall submit whose delegates did not appear.

ARTICLE VI

The term of eighteen months shall be fixed for the presentation of all the claims which are to be adjudged by the mixed commission, of which the preceding article speaks, and that time having expired, no other claim shall be entertained.

The debt arising from this source shall be paid by the Paraguayan Government as the liquidation goes on, in government bonds at par bearing interest at six per cent, with a redemption fund of one per cent per annum.

The redemption shall be made at par, and by lot, the Consul of the nation which claims, who resides at the place in which the said operation shall take place, may be present at the act, if so authorized.

No. 59

GUATEMALA—SALVADOR

Provision for the arbitration of any disputes that might arise concerning the interpretation of this treaty of friendship and alliance.—Signed at San Salvador, January 24, 1872¹

ARTICLE XV

If (what is certainly not to be expected) any of the articles contained in this treaty should be in any way violated or infringed, it is expressly stipulated that neither of the contracting parties shall order or authorize acts of reprisal or declare war against the other on complaint of offense or damages. The party which considers itself injured shall present to the other a statement of those offenses or damages, verified by sufficient proofs and evidence, and if upon this the government which considers itself aggrieved should not obtain due satisfaction, it shall not proceed to any act of hostility, but the matter shall be submitted to the arbitral award of one of the governments of Central America, or some other of the American continent.

No. 60

COSTA RICA—GUATEMALA—HONDURAS—SALVADOR

Provision for general arbitration, in a Central American Union agreement.—Signed at the City of Unión, February 17, 1872²

ARTICLE III

The conservation of peace in the Central American republics is a strict duty of their respective governments and people, and the differences which may arise between them, whatever their cause, shall be settled amicably through the mediation of the governments

¹ English: *British and Foreign State Papers*, vol. LXIII, p. 234.

Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. (1892), p. 592.

Ratified by the executive of Guatemala, February 24, 1872; approved by the Chamber of Deputies of Salvador, February 28, 1872; ratifications exchanged, March 20, 1872.

² Spanish: *Tratados de Costa Rica* (1893), pp. 12–20.

No positive evidence is at hand whether this was or was not ratified by all or by any of the states concerned, or whether the contemplated exchange of ratifications ever occurred. Some of these arbitral clauses, and some other clauses not here printed are in Wiesse, *Tratados de Arbitramiento*, p. 57; and most of the arbitral clauses are in Mr. Luis Anderson's manuscript study of the archives of the Costa Rican Foreign Office. But neither of these nor the source cited make any comment concerning ratification.

who are not a party in the matter; and in case of failure of mutual agreement, they shall submit their difference to the arbitration of the central authority to be established or to that of a court of arbitration composed of representatives of neutral Central American governments. The government or governments which shall violate this principle shall be guilty of the crime of high treason against the Central American nation.

ARTICLE IX

2. If the government of the state from which the refugee has left should demand the latter's internment or change of residence, the government where the refugee has taken asylum shall be obliged to accede to such demand; but should this obligation not be complied with, or should this measure appear unjust the solution of the difficulty shall be submitted to the arbitral decision of the national authority to be established, or to that of the three governments which are neutral in the matter; although by this it is not to be understood that the state giving asylum should delay the internment or hinder the change of residence of the refugee.

ARTICLE XVIII

The boundary disputes now pending or which may arise in the future between the Central American republics shall be finally adjudged and settled by the national authority to be established, or by the collective court of the other three states, should the interested parties fail to arrive at an amicable settlement between them.

ARTICLE XXVI

The Central American governments bind themselves to carry out the stipulations of the present agreement as to all those matters which may be or should be considered peremptory for the preservation of peace in Central America from the moment of the exchange of ratifications, providing immediately for the formation of the collective arbitral court referred to in this pact in order that it may pass upon all the disagreements and difficulties adverse to peace, until the formation of the national congress and the Central American authority which in the future are to be charged with its development and execution.

ARTICLE XXVIII

Each and every one of the Republics of Central America obligate themselves to establish, maintain, and fulfil each and every one of the

principles and stipulations contained in the present agreement; and any infraction of it shall be an object for the collective arbitral decision of the governments or of the national authority, of which the fulfilment and enforcement shall be obligatory in either case.

No. 61

MEXICO—UNITED STATES

*Supplementary convention for the arbitration of all pending claims of citizens of either against the government of the other.—Signed at Washington, November 27, 1872*¹

Whereas, by the convention concluded between the United States and the Mexican Republic on the fourth day of July, 1868, certain claims of citizens of the contracting parties were submitted to a joint commission, whose functions were to terminate within two years and six months, reckoning from the day of the first meeting of the commissioners; and whereas the functions of the aforesaid joint commission were extended, according to the convention concluded between the same parties on the nineteenth day of April, 1871, for a term not exceeding one year from the day on which they were to terminate according to the first convention; and whereas the possibility of said commission's concluding its labors even within the period fixed by the aforesaid convention of April nineteenth, 1871, is doubtful:

Therefore, the President of the United States of America and the President of the United States of Mexico, desiring that the term of the aforementioned commission should be again extended, in order to attain this end, have appointed, the President of the United States, Hamilton Fish, Secretary of State, and the President of the United States of Mexico, Ignacio Mariscal, accredited to the Government of the United States as Envoy Extraordinary and Minister Plenipotentiary of said United States of Mexico, who, having exchanged their respective powers, which were found sufficient and in due form, have agreed upon the following articles:

¹ English: *United States Statutes at Large*, vol. 18, p. 761.

Spanish: *Tratados y Convenciones Concluidos y Ratificados por México* (1878), p. 304.

Again extending the time for the arbitration provided for in the convention of July 4, 1868, No. 48, *ante*, p. 72. See also Nos. 56, 69, and 73, pp. 87, 103, and 110.

Ratified by the United States, March 10, 1873; ratified by Mexico, May 19, 1873; ratifications exchanged at Washington, July 17, 1873.

ARTICLE I

The high contracting parties agree that the said commission be revived and that the time fixed by the convention of April nineteenth, 1871, for the duration of the commission aforesaid, shall be extended for a term not exceeding two years from the day on which the functions of the said commission would terminate according to that convention, or for a shorter time if it should be deemed sufficient by the commissioners or the umpire, in case of their disagreement.

It is agreed that nothing contained in this article shall in any wise alter or extend the time originally fixed in the said convention for the presentation of claims to the commission.

ARTICLE II

The present convention shall be ratified and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the above-named plenipotentiaries have signed the same and affixed their respective seals.

Done in the city of Washington the twenty-seventh day of November, in the year one thousand eight hundred and seventy-two.
[Here follow signatures.]

No. 62

BOLIVIA—CHILE

Provision for the arbitration of disputes concerning the location of mines subject to common exploitation, in a boundary protocol.—Signed at La Paz, December 5, 1872¹

ARTICLE II

In order to determine by visible marks the location of the mines and of districts containing minerals situated between the twenty-third and twenty-fifth degrees, and subject in common to the payment of exportation duties, each party shall appoint a commissioner, who as experts shall proceed to fix and determine the said places. If the commissioners should reach an agreement, their decision as experts

¹ Spanish: La Fontaine, *Pasicrisie internationale*, p. 220.

See arbitral provision concerning same subject in the treaty of August 6, 1874, No. 67, *post*, p. 100. See also No. 70, *post*, p. 105.

This was only a protocol and made no provision for its ratification or exchange. The full text is contained in a publication of the Chilean Land Office of 1911, entitled *La Línea de Frontera con la República de Bolivia*.

shall be held to be final and permanent, and shall be respected as a decision possessing the authority of a *res adjudicata*, without the necessity of the approval of the respective governments. In case of disagreement, the said expert commissioners shall appoint a third party to adjust the dispute; but if they should fail to agree upon a person, the designation of the umpire shall be made by His Majesty the Emperor of Brazil. It is agreed that the territory of common exploitation, defined in Article 2 of the same treaty is the polygon formed by the twenty-third degree north and the twenty-fifth south latitude, and by the summits of the Andes to the east and the Pacific Ocean to the west.

No. 63

BOLIVIA—PERU

*Provision for general arbitration, in a treaty of defensive alliance.—
Signed at Lima, February 6, 1873*¹

ARTICLE VIII

The contracting parties bind themselves in addition—

First. To employ with preference, whenever it is possible, every conciliatory measure in order to avoid a rupture or to put an end to war, although the rupture has already occurred, holding as the most effective, the arbitration of a third power.

No. 64

GUATEMALA—NICARAGUA—SALVADOR

*Arrangement for bringing about the arbitration of an existing boundary dispute between Nicaragua and Costa Rica, in a treaty of alliance.—
Signed at Managua, August 26, 1873*²

ARTICLE VII

The Republics of Guatemala and Salvador undertake that, as soon as there is a change in the present situation of Costa Rica, they will

¹ English: *British and Foreign State Papers*, vol. LXX, p. 215.

Spanish: Aranda, *Tratados del Perú*, vol. II, p. 442.

Approved by the Peruvian Congress April 22, and proclaimed by the president, April 30, 1873; ratified by the Bolivian executive, with the previous approval of the Assembly, June 16, 1873; ratifications exchanged at La Paz, June 16, 1873.

² English: *British and Foreign State Papers*, vol. LXIII, p. 850.

Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. I (1892), p. 433.

No information is at hand whether this was or was not ratified by all or any of the parties, or whether ratifications were exchanged.

take the initiative in order to effect a settlement of the boundary question pending between Nicaragua and that republic in a friendly manner, and on the terms most suitable for the interests of both nations; and if this should not be possible, to have the said question settled by means of arbitration, as already agreed between the two countries, as soon as feasible, so that the existing inconvenience may be put an end to.

No. 65

GUATEMALA—NICARAGUA

Provision for general arbitration, in a treaty of friendship and commerce.—Signed at Guatemala, February 13, 1874¹

ARTICLE II

The two republics agree not to make war on each other in any case whatever, and if any difference should arise, they shall previously give each other due explanations, resorting, at all events, in case they can not come to an understanding, to the arbitration of some government of a friendly nation.

If, unfortunately, any nation should make war against Guatemala or Nicaragua, the two high contracting parties agree in the most absolute manner upon not entering into any offensive alliance, nor lending any kind of assistance to the enemies of either of the two republics; but this engagement does not prevent their entering into any alliances for the defense of their rights or of their respective territories, in case they are invaded.

ARTICLE III

If the disagreement should occur between some states of Central America other than the contracting parties, the latter, in mutual concert, or each one by itself, shall offer their good offices and mediation in order to maintain general harmony throughout Central America.

¹ English: *British and Foreign State Papers*, vol. LXV, p. 482.

Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. I (1892), p. 546.

Ratifications exchanged July 15, 1875. The arbitral provision is contained in the first paragraph of Article II. The other clauses are quoted as interesting attempts to limit or prevent war by neutrality, mediation, and good offices. The complete text is also in Bonilla, *Tratados de Nicaragua*, 1909, p. 54; and the arbitral clause alone is in *Tratados de Arbitraje de Nicaragua*, p. 108, and Wiesse, *Tratados de Arbitramiento*, p. 59.

ARTICLE IV

If the disagreement should occur between one of the contracting governments and a foreign power the other shall offer its good offices, urging the other states, according to circumstances, to do the same on their part until they succeed in obtaining an equitable and satisfactory arrangement. This agreement shall take effect as soon as the existence of the dispute is known and due information is had of its nature and circumstances.

No. 66

ARGENTINA—PERU

Provision for general arbitration, in a treaty of friendship, commerce, and navigation. Signed at Buenos Aires, March 9, 1874.

ARTICLE XXXIII

The two republics agree that, if unfortunately the friendly relations between them should come to be interrupted, they shall not appeal to arms before exhausting the course of negotiation, and especially not before hope has been lost of obtaining due satisfaction by this means.

When this case occurs, the government which considers itself aggrieved, after having put forward its arguments and sought a just arrangement in vain, shall embody in a declaration the grounds of its complaint, and shall present it at the department of foreign affairs of the government to which the offence is imputed, announcing the intention to submit [the question]² to the decision of a third (of five governments, which it shall designate), if before six months, reckoned from the day on which its declaration shall have been presented, satisfactory explanations shall not have been granted upon the point or points which were the ground of complaint.

The government to which the offence is imputed shall answer within the said period of six months, and shall terminate its statement by naming on its part one of the five governments proposed to serve as umpire.

¹ English: *British and Foreign State Papers*, vol. LXIX, p. 709.

Spanish: *Tratados de la Argentina*, vol. IX, p. 322.

Ratified by Peru, October 29, 1875; ratified by Argentina, December 15, 1875; ratifications exchanged at Buenos Aires, December 20, 1875.

² The words in brackets were supplied in the acts of ratification.

If the offended government shall not profess to be satisfied with the explanation of the other, both shall have recourse to the one designated as arbiter, submitting to it with the necessary documents the matter at issue.

If the accused government avoids the proposal of arbitration, or the nomination of umpire, the latter shall be elected by the plaintiff from among the five governments which it designated at first.

In general, in all cases of serious nature, and likely to lead to war, in which the two contracting parties can not come to an agreement by diplomatic means, they shall have recourse to the decision of an umpire to arrange and definitively appease their differences; and neither of them shall be able to declare nor authorize acts of reprisal against the other, except in case that other declines to submit to the arbitrament of a friendly government or carry out its award.

No. 67

BOLIVIA—CHILE

*Provision for the arbitration of disputes concerning the location of mines subject to common exploitation, in a boundary treaty.—Signed at Sucre, August 6, 1874*¹

ARTICLE II

For the purposes of this treaty the lines of the twenty-third and twenty-fourth degrees of latitude fixed by the commissioners Pissis and Mujia, and of which the record drawn up at Antofagasta on the 10th February, 1870 bears witness, are considered unchanged and lasting.

If any doubt should arise as to the true and exact situation of the mineral district of Caracoles, or of any other district producing minerals, on account of their being considered without the zone comprised between those parallels, steps will be taken to determine the said situation by a commission of two experts, appointed one by each of the contracting parties, a third to be selected in case of a disagreement by the two experts themselves; and if they can not agree

¹ English: *British and Foreign State Papers*, vol. LXXI, p. 897.

Spanish: *Tratados de Chile*, vol. II (1894), p. 102.

See protocol of December 5, 1872, No. 62, *ante*, p. 96 and complementary agreement of July 21, 1875, No. 70, *post*, p. 105.

Ratified by Bolivia, July 28, 1875; ratifications exchanged at La Paz, July 28, 1875. For Bolivian ratification, see Salinas, *Tratados de Bolivia*, vol. III, p. 74, following a copy of the treaty.

on this nomination, it is to be made by His Majesty the Emperor of Brazil. Until there appears no proof to the contrary relative to this determination, it will continue to be understood, as it has up to the present, that the said mineral district is comprised within the degrees of latitude indicated.

No. 68

COLOMBIA—UNITED STATES

Arrangement for the arbitration of claims arising from the seizure of the United States steamer Montijo by revolutionists at Panama.—Signed at Bogotá, August 17, 1874¹

The undersigned, to wit, William L. Scruggs, minister resident of the United States of America, and Jacobo Sánchez, secretary of the interior and foreign relations of the United States of Colombia, being especially authorized by their respective governments to submit to the decision of arbitrators the indemnity claims made by the Government of the United States against that of Colombia for damages resulting from the seizure and detention of the steamer *Montijo*, within the territory and by certain citizens of Colombia, in April, 1871, have entered into the following agreement:

ARTICLE I

Said claims shall be submitted to arbitrators, one to be appointed by the minister resident of the United States of America, another by the Government of the United States of Colombia, and these two to name an umpire, who shall decide all questions upon which they may be unable to agree. In case the place of either arbitrator or of the umpire shall, from any cause, become vacant, such vacancy shall be filled forthwith, in the manner herein provided for the original appointment. If the arbitrators can not agree in the choice of an umpire, one shall be selected by new commissioners, chosen for and assigned exclusively to this duty.

ARTICLE II

The arbitrators and umpire so named shall meet in Bogotá within one month from the date of their appointment, and shall, before pro-

¹ English: *Foreign Relations of the United States* (1875), vol. I, p. 427.

Spanish: Uribe, *Anales Diplomáticos y Consulares de Colombia*, vol. III, p. 745.

No provision is made in the instrument for its ratification or exchange.

ceeding to business, make and subscribe a solemn declaration that they will impartially consider and determine, to the best of their judgment, and according to public law and the treaties in force between the two countries, and these present stipulations, the claims herein submitted, and such declaration shall be entered upon the record of their proceedings.

ARTICLE III

The official correspondence and documents relative to the case shall be submitted to the arbitrators; but before their decision is rendered, the attorney-general, or lawyer, of the Government of Colombia shall be heard, as well as the one designated by the minister resident of the United States. The expositions of the attorneys will be made orally or in writing.

ARTICLE IV

The arbitrators shall have jurisdiction of the claims mentioned, and they shall decide, as a primary question, whether the United States of Colombia is obligated to grant indemnification; and if that question should be decided affirmatively, they will fix the amount of indemnification. The award shall be in writing; and, if indemnity be given, the sum to be paid shall be expressed in the legal coin—pesos de ley—of the United States of Colombia, and paid to the minister resident of the United States, or to such person as he may name, within one year from the date of the decision.

ARTICLE V

The expenses of the arbitration, not to exceed fifteen hundred dollars, shall be borne in equal moieties by the two governments.

ARTICLE VI

The two governments will accept the award made as final and conclusive, and will give full effect to the same; and the Colombian Government shall be forever released from any and all further accountability after the decision of the arbitrators shall have been made and its terms faithfully complied with.

In faith whereof the plenipotentiaries of the two governments have signed and sealed the present agreement, in Bogotá, on the seventeenth day of August, in the year of our Lord one thousand eight hundred and seventy-four.

[Here follow signatures.]

No. 69

MEXICO—UNITED STATES

*Supplementary convention for the arbitration of all pending claims of citizens of either against the government of the other.—Signed at Washington, November 20, 1874*¹

Whereas, pursuant to the convention between the United States and the Mexican Republic of the nineteenth day of April, 1871, the functions of the joint commission under the convention between the same parties of the fourth of July, 1868, were extended for a term not exceeding one year from the day on which they were to terminate according to the convention last named;

And whereas, pursuant to the first article of the convention between the same parties, of the twenty-seventh day of November, one thousand eight hundred and seventy-two, the joint commission above referred to was revived and again extended for a term not exceeding two years from the day on which the functions of the said commission would terminate pursuant to the said convention of the nineteenth day of April, 1871; but whereas the said extensions have not proved sufficient for the disposal of the business before the said commission, the said parties being equally animated by a desire that all that business should be closed, as originally contemplated, the President of the United States has for this purpose conferred full powers on Hamilton Fish, Secretary of State, and the President of the Mexican Republic has conferred like powers on Don Ignacio Mariscal, Envoy Extraordinary and Minister Plenipotentiary of that republic to the United States; and the said plenipotentiaries having exchanged their full powers, which were found to be in due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that the said commission shall again be extended, and that the time now fixed for its duration shall be prolonged for one year from the time when it would have ex-

¹ English: *United States Statutes at Large*, vol. 18, p. 833.

Spanish: *Tratados y Convenciones Concluidos y Ratificados por México* (1878), p. 307. An English text also follows.

Again extending the time for the arbitration provided for in the convention of July 4, 1868, No. 48, *ante*, p. 72. See also Nos. 56, 61, and 73 pp. 87, 95, and 110.

Ratified by Mexico, December 25 (December 21 according to the English source), 1874; ratified by the United States, January 22, 1875; ratifications exchanged at Washington, January 28, 1875.

pired pursuant to the convention of the twenty-seventh of November, 1872; that is to say, until the thirty-first day of January, in the year one thousand eight hundred and seventy-six.

It is, however, agreed that nothing contained in this article shall in any wise alter or extend the time originally fixed by the convention of the fourth of July, 1868, aforesaid, for the presentation of claims to the commission.

ARTICLE II

It is further agreed that, if at the expiration of the time when, pursuant to the first article of this convention, the functions of the commissioners will terminate, the umpire under the convention should not have decided all the cases which may then have been referred to him, he shall be allowed a further period of not more than six months for that purpose.

ARTICLE III

All cases which have been decided by the commissioners or by the umpire heretofore, or which shall be decided prior to the exchange of the ratifications of this convention, shall from the date of such exchange be regarded as definitively disposed of, and shall be considered and treated as finally settled, barred, and thenceforth inadmissible. And, pursuant to the stipulation contained in the fourth article of the convention of the fourth day of July, one thousand eight hundred and sixty-eight, the total amount awarded in cases already decided, and which may be decided before the exchange of ratifications of this convention, and in all cases which shall be decided within the times in this convention respectively named for that purpose, either by the commissioners or by the umpire, in favor of citizens of the one party, shall be deducted from the total amount awarded to the citizens of the other party, and the balance, to the amount of three hundred thousand dollars, shall be paid at the city of Mexico, or at the city of Washington, in gold or its equivalent, within twelve months from the thirty-first day of January, one thousand eight hundred and seventy-six, to the government in favor of whose citizens the greater amount may have been awarded, without interest or any other deduction than that specified in Article VI of that convention. The residue of the said balance shall be paid in annual instalments, to an amount not exceeding three hundred thousand dollars, in gold or its equivalent, in any one year, until the whole shall have been paid.

ARTICLE IV

The present convention shall be ratified, and the ratifications shall be exchanged at Washington, as soon as possible.

In witness whereof the above-named plenipotentiaries have signed the same and affixed thereto their respective seals.

Done in Washington the twentieth day of November, in the year one thousand eight hundred and seventy-four.

[Here follow signatures.]

No. 70

BOLIVIA—CHILE

Provision for the arbitration of all disputes arising out of the boundary treaty of August 6, 1874, contained in a supplementary treaty.—Signed at La Paz, July 21, 1875¹

ARTICLE II

All the questions to which the interpretation and execution of the treaty of August 6, 1874 may give rise shall be submitted to arbitration.

No. 71

ARGENTINA—PARAGUAY

Provision for the arbitration of a boundary dispute, in a boundary treaty.—Signed at Buenos Aires, February 3, 1876²

The undersigned ministers plenipotentiary of Paraguay and of the Argentine Republic, named by their respective governments in order to conclude the boundary treaty now pending between the two re-

¹ Spanish: Salinas, *Tratados de Bolivia*, vol. III, p. 77.

For arbitral provision of the treaty of August 6, 1874, see No. 67, *ante*, p. 100. See also No. 62, *ante*, p. 96.

Ratified by Bolivia, September 22, 1875; ratifications exchanged at La Paz, September 22, 1875. The text of this is also in the Chilean treaty collection following that of the treaty of August 6, 1874, No. 67, *ante*, p. 100.

² English: *British and Foreign State Papers*, vol. LXVIII, p. 97.

Spanish: *Tratados de la Argentina*, vol. IX, p. 196.

Approved by the Argentine Chamber, July 1, 1876, and proclaimed by the Argentine executive six days later; ratifications exchanged at Buenos Aires, September 13, 1876. *Tratados del Paraguay*, 1890, p. 22, in telling of the exchange of ratifications, says the treaty had previously been ratified in all of its parts by the governments of both countries. A copy of the treaty precedes.

publics, having exchanged their full powers and having found them in good and due form, agreed as follows:

ARTICLE I

The Republic of Paraguay is divided from the Argentine Republic on the east and on the south by the mid-channel of the main stream of the River Paraná from its confluence with the River Paraguay to the limits of the Empire of Brazil on its left bank; the Island of Apipi belonging to the Argentine Republic, and the Island of Yaciretá to that of Paraguay, as declared by the treaty of 1856.

ARTICLE II

On the west the Republic of Paraguay is divided from the Argentine Republic by the mid-channel of the main stream of the River Paraguay from its confluence with the River Paraná; the territory of "El Chaco," as far as the main channel of the River Pilcomayo, which falls into the River Paraguay in latitude 25° 20' south according to Mouchez' map, and 25° 22' according to that of Brayer, being definitively recognized as belonging to the Argentine Republic.

ARTICLE III

The Island of Atajo or Cerrito belongs to the dominion of the Argentine Republic. The remaining permanent or temporary islands to be met with in either of the Rivers Paraná and Paraguay belong to the Argentine Republic or to that of Paraguay according to their position with reference to one or other republic, in conformity with the principles of international law which guide such matters. The channels existing between the said islands, including that of Cerrito, are common to the navigation of both states.

ARTICLE IV

The territory comprised between the main arm of the Pilcomayo and Bahia Négra shall be regarded as divided into two sections, the first being that comprised between Bahia Négra and the River Verde, which is situated in latitude 23° 10' south, according to Mouchez' map; and the second, that comprised between the said River Verde and the main arm of the Pilcomayo; the Villa Occidental being included in this section.

The Argentine Government definitively renounces all pretension or right over the first section.

The proprietorship or right over the territory of the second section,

including Villa Occidental, is submitted to arbitration for final decision.

ARTICLE V

The two high contracting parties agree to name his Excellency the President of the United States of North America as arbitrator, to decide on the right of sovereignty over the second section of territory, referred to in the foregoing article.

ARTICLE VI

Within a period of sixty days from the ratification of the present treaty, the high contracting parties shall address themselves jointly or separately to the arbitrator aforementioned in order to solicit his acceptance (of that office).

ARTICLE VII

If his Excellency the President of the United States should not accept the office of judge arbiter the contracting parties must agree to choose another arbitrator within sixty days from the receipt of his refusal; and if either party should fail to attend within the period fixed upon for nomination, this shall be understood to have been definitively made by the party which attended and gave notice thereof to the other. In this case, the decision which may be given by the arbitrator shall be as fully binding as if he had been named by the mutual consent of both parties, forasmuch as the abstention of one of them from the act of nomination will imply that it delegates this right to the other. A like period of sixty days, and the same conditions, shall hold good in the event of further refusal (*excusaciones*).

ARTICLE VIII

The arbitrator being named, the Government of Paraguay and that of the Argentine Republic shall, within the term of twelve months, reckoning from the time of his acceptance of the office, submit to him memorials embodying an exposition of the rights which each may consider itself to possess with reference to the territory in question, together with all documents, titles, maps, quotations, references, and whatsoever may be deemed by either favorable to its views; it being understood that, upon the expiration of the aforesaid period of twelve months, the discussion shall be brought to a final close by both parties, whatsoever reason may be adduced to the contrary. Upon the expiration of the term (above named) it shall be in the power of the arbitrator alone to call for such additional documents or

titles as may by him be deemed necessary in order to assist him in deciding or in grounding the verdict which he is called upon to pronounce.

ARTICLE IX

If within the term stipulated, either of the contracting parties should fail to present the memorial, titles, and documents in support of his claims, the arbitrator shall pronounce his decision basing it on those which may have been produced by the other party and on the memoranda presented by the Paraguayan Minister and by the Argentine Minister in the year 1873, and the remaining diplomatic documents exchanged during the negotiations of the aforesaid year. If neither should have presented new documents, the arbitrator shall give his decision, taking in such case those just mentioned as sufficient explanation and proof.

Either contracting government may present these documents to the arbitrator.

ARTICLE X

In the cases provided for in the foregoing articles, the decision which may be given shall be final and binding on both parties, neither being able to allege any reason for hindering its execution.

ARTICLE XI

It is agreed that, during the progress of the arbitral procedure and until its termination, no alteration shall be made in the section of the boundary submitted to arbitration; and that if any act of possession be performed before the decision, it shall have no value whatever, nor be considered in the discussion to constitute a fresh title. It is equally agreed that the fresh concessions which shall be made by the Argentine Government in Villa Occidental, shall not be invoked as a title in its favor, being simply a continuation of the jurisdiction exercised by it at the present time, and which shall continue until the arbitrator's decision be pronounced, in order not to jeopardize the position of that locality to the prejudice of the state to which it may definitively be awarded.

ARTICLE XII

It is agreed that, if the arbitrator's decision should be in favor of the Argentine Republic, that state shall respect the rights of property and possession of the Republic of Paraguay, and shall indemnify the latter for the value of its public buildings; and should

it be in favor of Paraguay, the latter shall equally respect the rights of possession and property of the Argentine Government, indemnifying likewise the Argentine Republic for the value of its public buildings. The amount of such indemnity, and the form of its payment, shall be determined by the commissioners named by the contracting parties, six months subsequent to a decision being pronounced by the arbitrator. In the event of disagreement between these two commissioners, they shall themselves name a third to settle the difference.

ARTICLE XIII

The surveys of territories made by the two countries shall not nullify those rights or titles which, directly or indirectly, may be held as regards the territory subject to arbitration.

ARTICLE XIV

The exchange of ratifications of the present treaty shall take place in the city of Buenos Aires within the shortest possible period.

In faith whereof the plenipotentiaries have signed the present treaty in duplicate, and affixed their seals in the city of Buenos Aires, this third day of February, one thousand eight hundred and seventy-six.

[Here follow signatures.]

No. 72

COSTA RICA—GUATEMALA—HONDURAS—NICARAGUA— SALVADOR

*Provision for general arbitration, in a treaty of peace preparatory to union between the five republics.—Signed at Guatemala, February 28, 1876*¹

ARTICLE I

There shall be a solid and invariable peace and a sincere friendship and alliance between the five republics of Central America, Costa Rica, Nicaragua, Salvador, Honduras, and Guatemala. If, what indeed is not to be expected, any question or difficulty should unfortunately arise between two or more of the five republics threatening

¹ Spanish: *Tratados de Costa Rica*, vol. II (1893), p. 23.

No evidence is at hand whether this was or was not ever ratified by any of the contracting governments. At any rate it was not effectively in force for a considerable time.

a break, the respective governments shall, first of all, give one another mutual explanations and shall put into practice all the means conducive to forestall the conflict.

In case these means should not prove sufficient to attain that end, they bind themselves never to declare war upon one another and to submit their differences to the arbitration of the other sister republics, laying before them the documents justifying their conduct so that said republics, having full knowledge of the case, may suggest a manner to solve it and may in the proper case declare on whose side is justice; moreover if all the republics should be directly or indirectly interested in the matter in question, this matter shall be submitted to the arbitration of one or more friendly governments after having exhausted all the aforesaid means to solve it.

No. 73

MEXICO—UNITED STATES

Supplementary convention for the arbitration of all pending claims of citizens of either against the government of the other.—Signed at Washington, April 29, 1876¹

Whereas, pursuant to the Convention between the United States and the Mexican Republic of the nineteenth day of April, 1871, the functions of the joint commission under the convention between the same parties of the fourth of July, 1868, were extended for a term not exceeding one year from the day on which they were to terminate according to the convention last named;

And whereas, pursuant to the first article of the convention between the same parties, of the twenty-seventh day of November, one thousand eight hundred and seventy-two, the joint commission above referred to was revived and again extended for a term not exceeding two years from the day on which the functions of the said commission would terminate pursuant to the said convention of the nineteenth day of April 1871;

And whereas pursuant to the convention between the same parties, of the twentieth day of November one thousand eight hundred and

¹ English: *Proclamation of the President of the United States of June 29, 1876.*

Spanish: *Tratados y Convenciones Concluidos y Ratificados por México* (1878), p. 311.

Again extending the time for the arbitration provided for in the convention of July 4, 1868, No. 48, *ante*, p. 72. See also Nos. 56, 61, and 69 pp. 87, 95, and 103.

Ratified by Mexico, May 30, 1876; ratified by the United States, June 27, 1876; ratifications exchanged at Washington, June 29, 1876.

seventy-four, the said commission was again extended for one year from the time when it would have expired pursuant to the convention of the twenty-seventh of November one thousand eight hundred and seventy-two, that is to say, until the thirty-first day of January one thousand eight hundred and seventy-six; and it was provided that if at the expiration of that time, the umpire under the convention should not have decided all the cases which may then have been referred to him, he should be allowed a further period of not more than six months for that purpose;

And whereas, it is found to be impracticable for the umpire appointed pursuant to the convention adverted to, to decide all the cases referred to him, within the said period of six months prescribed by the convention of the twentieth of November one thousand eight hundred and seventy-four;

And the parties being still animated by a desire that all that business should be closed as originally contemplated, the President of the United States has for this purpose conferred full powers on Hamilton Fish, Secretary of State, and the President of the Mexican Republic has conferred like powers on Don Ignacio Mariscal, Envoy Extraordinary and Minister Plenipotentiary of the Republic to the United States; and the said plenipotentiaries having exchanged their full powers, which were found to be in due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree that if the umpire appointed under the convention above referred to, shall not, on or before the expiration of the six months allowed for the purpose by the second article of the convention of the twentieth of November one thousand eight hundred and seventy-four, have decided all the cases referred to him, he shall then be allowed a further period until the twentieth day of November one thousand eight hundred and seventy-six, for that purpose.

ARTICLE II

It is further agreed that so soon after the twentieth day of November one thousand eight hundred and seventy-six as may be practicable, the total amount awarded in all cases already decided, whether by the commissioners or by the umpire, and which may be decided before the said twentieth day of November, in favor of citizens of the one party shall be deducted from the total amount awarded to the citizens of the other party, and the balance, to the amount of three

hundred thousand dollars, shall be paid at the city of Mexico, or at the city of Washington, in gold or its equivalent, on or before the thirty-first day of January one thousand eight hundred and seventy-seven, to the government in favor of whose citizens the greater amount may have been awarded, without interest or any other deduction than that specified in Article VI of the said Convention of July, 1868. The residue of the said balance shall be paid in annual instalments on the thirty-first day of January in each year, to an amount not exceeding three hundred thousand dollars, in gold or its equivalent, in any one year, until the whole shall have been paid.

ARTICLE III

The present convention shall be ratified, and the ratifications shall be exchanged at Washington, as soon as possible.

In witness whereof the above-named plenipotentiaries have signed the same and affixed there-to their respective seals.

Done in Washington the twenty-ninth day of April, in the year one thousand eight hundred and seventy-six.

[Here follow signatures.]

No. 74

GUATEMALA—SALVADOR

*Provision for the arbitration of disputes arising out of this treaty of peace and friendship.—Signed at Santa Ana, May 8, 1876*¹

ARTICLE XI

If any of the articles of this treaty should in any manner be violated or infringed, it is expressly stipulated that neither of the two contracting parties shall order or authorize acts of reprisal nor declare war until all the peaceful means of obtaining satisfaction and agreement shall be exhausted. These means shall be the declaration in writing of the offenses or injuries done, with proofs or sufficient evidence pre-

¹ English: *British and Foreign State Papers*, vol. LXVII, p. 987.

Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. I (1892), p. 597.

Ratified by Guatemala, August 3, 1876; ratifications exchanged at San Salvador, August 18, 1876.

This Article XI of this treaty was repeated as Article XXXV of a treaty of friendship and alliance between these powers signed May 6, 1885. See Spanish source, p. 610.

sented by the government that believes itself offended, and if due satisfaction is not given, then the decision of the question shall be submitted to the arbitration of any Central American government, or any other government of the American continent.

No. 75

CHILE—PERU

Provision for general arbitration, in a treaty of friendship, commerce, and navigation.—Signed at Lima, December 22, 1876¹

ARTICLE XVII

If, what God forbid, any unfortunate differences between the two contracting parties should cause an interruption in their friendly relations, and if after having exhausted all means of reaching an amicable and satisfactory settlement, they should fail to arrive at an agreement convenient to their common welfare, they shall submit such differences by common agreement to the arbitration of a third power in order to avoid a final break.

No. 76

HONDURAS—NICARAGUA

Provision for general arbitration, in a treaty of friendship, commerce, and extradition.—Signed at Tegucigalpa, March 13, 1878²

ARTICLE II

It is agreed that there shall in no case be war between Nicaragua and Honduras, and that should any difference arise between them, due explanations shall be given, and that in case an agreement can not be attained, recourse shall be had to the arbitration of the government of some friendly nation, so that, whatever the question at issue, it may be resolved by pacific means.

¹ Spanish: Aranda, *Tratados del Perú*, vol. iv, p. 121.

Approved by the Congress of Peru, February 5, 1877, and proclaimed by the executive the day following. No evidence is at hand concerning Chilean ratification or concerning the exchange of ratifications. The treaty is not printed in *Tratados de Chile*.

² English: *British and Foreign State Papers*, vol. lxx, p. 40.

Spanish: *Derecho de Gentes de Nicaragua* (1885), p. 177.

Ratifications exchanged at Managua, September 20, 1879.

No. 77

HONDURAS—SALVADOR

Provision for general arbitration, in a treaty of peace, friendship, and commerce.—Signed at Tegucigalpa, March 31, 1878¹

ARTICLE XXXIV

If any of the articles of this treaty should be violated or infringed, or any motive for disagreement should occur between the two republics, it is expressly stipulated that neither of the two contracting parties will order or authorize acts of reprisal until all peaceful measures for satisfaction or agreement have been exhausted. These measures will be the explanation, in memoranda, of the causes of offense or injuries sustained, with adequate proofs or testimony, presented by the government which considers itself aggrieved, and if due satisfaction be not granted to it, the decision concerning the matter shall be referred to any of the governments of Central America or of the continent of America.

No. 78

NICARAGUA—PERU

Provision for general arbitration, in a treaty of friendship, commerce, and navigation.—Signed at Managua, October 9, 1879²

ARTICLE XXXI

The two republics agree that if unfortunately the relations of friendship between them should come to be interrupted they will not appeal to arms before the method of negotiations has been exhausted nor until hope has been lost of obtaining proper satisfaction thereby.

ARTICLE XXXII

Should this case arise, the government deeming itself aggrieved, shall, after setting forth its reasons and the fact that it has vainly sought for a just settlement, draw up a manifesto stating its grounds of complaint, and will present it at the office for foreign affairs of the

¹ English: *British and Foreign State Papers*, vol. LXII, p. 963.

Spanish: *Tratados del Salvador* (1884), p. 215.

See supplementary convention of December 18, 1880. No. 79, *post*, p. 115.

Ratifications exchanged at Tegucigalpa, December 17, 1880.

² Spanish: Aranda, *Tratados del Perú*, vol. x, p. 720.

No evidence is at hand whether this was or was not ratified or whether ratifications were or were not exchanged.

government to whom the offense is imputed announcing its intention to submit the affair to the decision of a third party [to be selected from amongst the five governments which it shall designate], if, within the term of six months reckoned from the day on which its manifesto shall have been presented, no satisfactory explanation of the point or points which form the subject of the complaint shall have been afforded.

The government to which the offense is imputed must answer within the said term of six months and shall close its explanation by designating on its part one of the five governments proposed to act as arbitrator.

If the aggrieved government should not be satisfied with the explanation given by the other, the two shall address themselves to the government chosen as arbitrator and submit to it, together with the necessary justificatory documents, the matter on which its decision is desired.

If the accused government should evade the proposal of arbitration, or the nomination of an arbitrator, the aggrieved government may proceed as it may deem convenient.

In general, in all cases of a serious nature and capable of causing war, where the two contracting parties may not be able to arrive at any agreement through diplomatic channels, they shall have recourse to an arbitrator for the peaceful and final settlement of their differences; and neither of them shall declare war or authorize acts of reprisal against the other except in the event of a refusal on the part of the other to submit to the arbitral decision of a friendly government or to fulfil the sentence which may be rendered by the latter.

No. 79

HONDURAS—SALVADOR

Preliminary convention for the arbitration of questions concerning the ownership of frontier lands and towns.—Signed at Tegucigalpa, December 18, 1880¹

The Governments of Honduras and Salvador, for the purpose of settling definitively the boundary disputes arisen between the towns

¹ Spanish: Reyes, *Tratados del Salvador* (1896), p. 244.

See additional convention of August 23, 1881, No. 83, *post*, p. 125.

Ratifications exchanged at Tegucigalpa, April 29, 1881. La Fontaine, *Pasicrisie internationale*, p. 647, quotes Article I, III, IV, and V only, citing *Algunos Datos Sobre Arbitraje*, p. 28, which also gives only these.

of Opatoro and Poloros, and those of Santa Elena or Jucuára and Arambala, Perquín and San Fernando; and of fixing the national boundaries through the whole extension of the line of the disputed lands, have given their respective full powers to His Excellency Doctor Don Ramón Rosa, Secretary of State for the Department of Foreign Affairs and to His Excellency Don Salvador Gallegos, Attorney at Law and Envoy Extraordinary and Minister Plenipotentiary, who, being authorized to conclude a preliminary convention for the settlement of the pending questions by means of arbitration, after having found their respective full powers to be in due form and after having discussed the matter with which they have been charged, have concluded the following preliminary convention:

ARTICLE I

The high contracting parties bind themselves to submit the questions of boundaries between Opatoro and Poloros; Santa Elena or Jucuára and Arambala; and Perquín and San Fernando, to the definitive decision of an arbiter appointed by the two parties.

ARTICLE II

By mutual agreement they appoint as arbiter His Excellency General Don Joaquín Zavala, President of the Republic of Nicaragua, whom they consider, on account of both his learning and his avowed impartiality, able to adjudicate and decide the pending question.

ARTICLE III

Each of the contracting governments, directly or by means of a special commissioner, must present to the appointed arbiter, within sixty days, counting from the latest date of ratification of the convention, a statement of the questions at issue, together with the documents justifying their claims and the protocol of the conferences held by their respective commissioners in the month of June of the present year.

ARTICLE IV

In weighing the evidence upon which the proof must rest, preference shall be given to documents submitted; and if one of the contracting parties fails to submit the documents within the time fixed in the preceding article, the arbiter shall examine the documents presented by the other party, in so far as they merit attention as

well because of their legality and weight as because of their direct reference to the matter or point in dispute.

ARTICLE V

If the documentary proof should be insufficient on any point, or if doubts should arise as to its applicability to the decision of the boundary dispute between the contracting parties, the arbiter may determine the doubtful points in the manner which he may judge most just and expedient, giving consideration to the special needs of the respective peoples, and especially to matters which may reconcile in a satisfactory manner their adverse claims, so as to secure, by means of a compromise, their acquiescence and satisfaction.

ARTICLE VI

It is agreed that the arbiter shall furthermore determine the national boundaries of each state along the whole line of the lands disputed by the aforesaid towns, directing his attention to the documents, historical precedents, recognized traditions, possession and jurisdiction which both parties may submit as proof of their rights. If in consequence of the determination of the national boundaries of either republic, any common or municipal lands should be left within the limits of the other, or be included in its territory, said lands shall be considered as the private property of the respective town; but the eminent domain and jurisdictional powers of the state within which said lands are included shall be exercised to all its extent.

ARTICLE VII

The arbiter may ask from both governments any information or data which he may deem it convenient to request, and likewise, at the expense of the two parties, have inspections and surveys made, plans drawn, and all such measures adopted as may tend to enlighten his understanding of the matters at issue, in order to render his award with greater care.

ARTICLE VIII

The award shall be rendered within the shortest time possible. After the arbiter's award has been communicated to each of the contracting governments, they shall, respectively, give it their sanction and shall cause the same to be strictly complied with, giving it all the support of their authority.

ARTICLE IX

The present convention shall be reported to the next legislatures, and if approved, the contracting governments shall proceed immediately to effect the exchange of the ratifications and to communicate the terms thereof to the appointed arbiter, urging him, as a friend of both parties, to accept the office which by mutual agreement they confer upon him.

In witness whereof the plenipotentiaries sign this preliminary convention in duplicate and affix their respective seals thereon.

Done in the city of Tegucigalpa, on the eighteenth day of the month of December, in the year eighteen hundred and eighty.
[Here follow signatures.]

No. 80

COLOMBIA—SALVADOR

*Convention for peace, general arbitration, and an International American Congress.—Signed at Paris, December 24, 1880*¹

It being of great importance to give solid foundation to the cordial bonds of friendship which have always existed between the Republic of Salvador and the United States of Colombia, and at the same time to affirm those sentiments of international fraternity which should serve as the basis of the peace and prosperity of all America; José Maria Torres Caicedo, Minister Plenipotentiary of the Republic of Salvador in France, and Luis Carlos Rico, Envoy Extraordinary and Minister Plenipotentiary of the United States of Colombia in France, have determined to celebrate, in the name of the governments which they represent and *ad referendum*, a convention, and accordingly have agreed upon the following articles:

ARTICLE I

The Republic of Salvador and the United States of Colombia contract the perpetual obligation of submitting to arbitration all controversies and difficulties of any kind that may arise between the two nations, notwithstanding the exertions that the respective govern-

¹ English: *British and Foreign State Papers*, vol. LXXI, p. 712.

Spanish: Reyes, *Tratados del Salvador* (2d ed., 1896), p. 47.

Ratified by the legislative body of Salvador, March 9, 1881; ratifications exchanged at Paris, January 7, 1882.

ments shall constantly make to avoid them, whenever it is impossible to arrive at a solution by diplomatic means.

ARTICLE II

The nomination of arbitrator, if one has to be nominated, shall be made in a special convention, in which also shall be clearly determined the question in dispute, and the mode of proceeding that shall be observed in the arbitration.

If there should be a want of agreement in celebrating such convention, or if it should be expressly resolved upon to dispense with this formality, the President of the United States of America shall be arbitrator and be fully authorized to exercise the functions appertaining thereto.

ARTICLE III

The Republic of Salvador and the United States of Colombia shall endeavor at the first opportunity to celebrate with other American nations conventions similar to the present one, so that the settlement of all disagreements between them, by means of arbitration, may be definitely agreed upon, and so that in September of next year they may send their representatives to Panama, for the purpose of adopting in an international congress, certain principles fundamental to American public law, it being understood that the Republic of Salvador and the United States of Colombia shall cause themselves to be represented in the congress referred to.

ARTICLE IV

This convention shall be ratified by the high contracting parties according to their respective formalities, and ratifications shall be exchanged in Bogotá, San Salvador, or Paris, within the shortest time possible.

In witness whereof they sign and seal the present instrument in Paris, on the twenty-fourth day of December, one thousand eight hundred and eighty.

[Here follow signatures.]

No. 81

COLOMBIA—COSTA RICA

Convention for the arbitration of all boundary disputes.—Signed at San José, December 25, 1880¹

The Republic of Costa Rica and the Republic of the United States of Colombia, being equally animated by a sincere desire to maintain and strengthen their friendly relations, and convinced that in order to attain this end so vital to their prosperity and fair name it is necessary to eliminate the only cause of disagreement existing between them, namely, the question of boundaries which, being forecast in Articles VII and VIII of the Convention of the fifteenth March, 1825, between Central America and Colombia, has been subsequently the subject of various treaties between Costa Rica and Colombia, none of which has been ratified: and both nations being agreed that such a precedent makes it advisable to adopt some other more expeditious, rapid, and sure means of settling the pending question of limits, by fixing once for all a clear and indisputable line of demarcation throughout the whole border of their respective territories: Therefore, the President of the Republic of Costa Rica, in virtue of the authority vested in him, has conferred full powers on His Excellency Dr. Don José Maria Castro, the Secretary of State for Foreign Affairs, on the one part; and the President of the United States of Colombia, specially and duly authorized to that effect by the legislative bodies of that country, on the Honorable Dr. Don José Maria Quijano Otero, his Chargé d'Affaires near this Cabinet, on the other part; who, after communicating their respective full powers, and finding them in good and proper form, have agreed to the following articles:

ARTICLE I

The Republic of Costa Rica and the United States of Colombia submit to arbitration the question of boundaries pending between them, and the designation of a line that is to divide permanently and clearly their respective territories; so that in their mutual relations each of them may remain in full, quiet, and undisputed possession of

¹ English: *British and Foreign State Papers*, vol. LXXI, p. 215.

Spanish: *Tratados de Costa Rica*, vol. I (1892), p. 355.

See additional convention of January 20, 1886, No. 102, *post*, p. 155.

Ratified by Costa Rica, December 30, 1880: ratifications exchanged at Panama, December 9, 1881.

the land lying respectively on its side of said line, which shall remain free from all and every special charge or liability in favor of the other party.

ARTICLE II

The umpire who shall condescend to act as such and undertake to comply with the stipulation of the preceding article must, in order for it to be valid, accomplish it within ten months after the date of his acceptance, even if one of the high contracting parties should fail to present a defence of its right by means of a representative or attorney.

ARTICLE III

The acceptance by the umpire shall be considered as duly notified to the high contracting parties, who shall not plead ignorance of the same, as soon as it shall have been published in the official gazette of the nation to which the umpire may belong, or in that of either of the high contracting parties.

ARTICLE IV

The umpire, after taking cognizance by word of mouth or in writing of what the party or parties may allege, and perusing the documents which they may present, or considering the reasons which they may adduce, shall give judgment without any further formality; and such judgment, whatever it may be, shall be thenceforth accepted as a treaty concluded, perfected, and irrevocable between the high contracting parties, who formally and expressly renounce every claim against the umpire's decision, and bind themselves to stand by it and fulfil it promptly, faithfully, and forever, plighting thereto the national honor.

ARTICLE V

In order to further and carry out the stipulations of the preceding articles, the high contracting parties name as umpire His Majesty the King of the Belgians; if, against their expectation, he should not condescend to accept, His Majesty the King of Spain; and in the equally unexpected case that he likewise should refuse, His Excellency the President of the Argentine Republic; in all of whom equally the high contracting parties have the most unlimited confidence.

ARTICLE VI

Whichever of the high arbitrators mentioned shall accept the office he shall be at liberty to delegate his functions, provided he does not fail to take part personally in pronouncing the final sentence.

ARTICLE VII

If, unfortunately, none of the high arbitrators hereby appointed should be able to do the high contracting parties the signal service of accepting this office, they agree to make in common new nominations, and thus successively till one of them takes effect; for it is hereby agreed and formally stipulated that the question of limits and the fixing of a boundary line between the territories of Costa Rica and Colombia shall never be decided by other means than those of arbitration as civilization and humanity require, and that in the meanwhile both shall agree to the *statu quo*.

ARTICLE VIII

The present convention shall be submitted in the Republic of Costa Rica to the National Grand Council for their approbation, and in the Republic of Colombia to the approbation of the Legislative Chambers; and the ratifications shall be exchanged in the city of Panama with as short a delay as possible.

In witness and testimony whereof the above-named plenipotentiaries have set their hand and seals respectively to two original copies of the present convention.

Done in the city of San José, the capital of the Republic of Costa Rica, on the twenty-fifth day of December, of the year one thousand eight hundred and eighty.

[Here follow signatures.]

No. 82

ARGENTINA—CHILE

Treaty for the settlement of boundary disputes, with a provision for general arbitration.—Signed at Buenos Aires, July 23, 1881¹

In the name of Almighty God!

The Governments of the Chilean and Argentine Republics, wishing to solve in a friendly and dignified spirit the boundary question which has existed between the two countries, and in fulfilment of Article XXXIX of

¹ English: *British and Foreign State Papers*, vol. LXXII, p. 1103.

Spanish: *Tratados de Chile*, vol. II (1894), p. 120.

Ratifications exchanged at Santiago, October 22, 1881. The arbitral provision of this treaty is confined to the sixth article; but the entire treaty has such an important bearing on the subsequent arbitral arrangements that it is printed in its entirety.

the treaty of April, 1856,¹ have resolved to conclude a boundary treaty, and for that purpose have named two plenipotentiaries, namely:

By His Excellency the President of the Republic of Chile, Don Francisco B. de Echevarría, Consul General for that Republic; and

By His Excellency the President of the Argentine Republic, Dr. Don Bernardo de Irigoyen, Secretary of State for Foreign Affairs;

Who, after exhibiting their full powers, and finding them sufficient, have agreed to the following articles:

ARTICLE I

The limit between Chile and the Argentine Republic is the Cordillera of the Andes from the north to latitude 52° south. The frontier line shall follow the crest of the Cordillera, which divides the waters, and will pass between the sources thereof on either side. Any doubts due to the existence of valleys formed by the forking of the Andes, where the line dividing the waters is not clearly determined, shall be amicably settled by two experts, one named by either side. In case of disagreement a third expert, named by these two shall be called upon to decide. A copy, in duplicate, embodying their operations, shall be signed by the two experts, and by the third in those cases where his decision has been called for. This act shall take full effect from the time it is written, and shall be considered valid and binding without further formality or procedure. A copy shall be forwarded to each government.

ARTICLE II

In the south part of the continent, and to the north of the Straits of Magellan, the limit between the two countries shall be a line which, leaving Dungeness Point, passes by land to Mt. Dinero, from where it shall continue westward by the highest points of the chain of hills to the summit of Mount Aymond. Thence the line will continue to the intersection of the meridian 70° west (Greenwich) with 52° south latitude, and thence westward along that parallel as far as the *divortia*

¹ See No. 24, *supra*, p. 33. The date of its signature was August 30, 1855. The date April, 1856, by which it is here alluded to was that of ratification. A treaty was signed on January 18, 1878, but never ratified, agreeing to ask the King of Belgium to arbitrate the disputed boundary. Another unratified treaty, of December 6, 1878, agreed to the creation of a commission composed of two Chileans and two Argentinians and an umpire chosen by these four outside their own nationals, which mixed commission should arbitrate the boundary dispute. Although neither of these conventions ever became effective yet both are of great interest in the history of the boundary dispute between these two countries and are valuable steps in the evolution of this arbitral agreement of 1881, which in turn proved to be only another step toward a settlement not to be reached until about two decades later. See *post*, Nos. 113, 144 and 149, pp. 179, 246, and 256. The texts in Spanish of these two unratified treaties may be consulted in La Fontaine, *Pacificisme internationale*, pp. 539, 541.

aquarum of the Andes. The territory north of the above line shall belong to the Argentine Republic, and south to Chile, without prejudice to the dispositions of Article III relative to Tierra del Fuego and the adjacent islands.

ARTICLE III

Tierra del Fuego is divided by a line starting from Cape Espiritu Santo at latitude 52° 40' south, and following longitude 68° 34' west (Greenwich) to Beagle Channel. Divided thus, Tierra del Fuego is Chilean to the west and Argentine to the east. In regard to the other islands, Isla de los Estados belongs to the Argentine Republic, with the islets next it, and the other islands in the Atlantic and east of Tierra del Fuego and the eastern coasts of Patagonia; while to Chile belong all the islands south of Beagle Channel down to Cape Horn, and those west of Tierra del Fuego.

ARTICLE IV

The experts referred to in Article I shall fix the lines indicated in the two preceding articles, and shall proceed in the same manner as therein described.

ARTICLE V

Magellan's Straits are neutralized forever, and free navigation is guaranteed to the flags of all nations. To insure this liberty and neutrality no fortifications or military defences shall be erected that could interfere with this object.

ARTICLE VI

The Governments of the Chilean and Argentine Republics shall exercise full dominion forever over the territories respectively assigned to them by the present arrangement. Any question unfortunately arising between the two countries, whether relative to this transaction or from any other cause, shall be submitted to the decision of a friendly power; the boundary limits of the present arrangement remaining unchangeable in any case.

ARTICLE VII

The ratifications of this treaty shall be exchanged within sixty days,¹ or sooner if possible, and the exchange shall take place either in the city of Buenos Aires or in that of Santiago de Chile.

¹ A protocol was signed at Buenos Aires on September 15, 1881, extending for thirty days the limit of time fixed by Article VII for the exchange of the ratifications of this treaty, such extension to date from September 22, 1881.

In faith of which the plenipotentiaries of the Chilean and Argentine Republics have signed and sealed the present treaty, in duplicate, with their respective seals, in the city of Buenos Aires, on the twenty-third day of July, in the year of Our Lord one thousand eight hundred and eighty-one.

[Here follow signatures.]

No. 83

HONDURAS—SALVADOR

*Convention additional to the arbitral convention of December 18, 1880.—
Signed at Tegucigalpa, August 23, 1881¹*

The Governments of Honduras and Salvador, deeming it convenient to state in writing in the most formal manner, the agreement they have reached of establishing an indefinite extension of the time fixed in Article III of the convention of December 18, last, and relative to the lawful time within which to present the documents which the appointed arbiter, His Excellency General Don Joaquín Zavala, must have in view in order to decide the boundary questions submitted to his arbitral decision by virtue of said convention; and for the purpose of attaining the aforesaid aim as soon as possible, the Government of Salvador empowers Doctor Don Adolfo Zuniga, its special commissioner, and the Honduras Government does likewise empower Doctor Don Ramon Rosa, Secretary of State for the Department of Foreign Affairs, to take up the matter of the aforesaid extension; who after having shown their respective powers which they find in due form, agree upon the following stipulations:

ARTICLE I

The Governments of Honduras and Salvador extend for an indefinite period of time the term of sixty days which was fixed by Article III of the convention of December 18, last, as the lawful time for the filing with His Excellency the Arbiter General Don Joaquín Zavala of the documents of both parties concerning the justification of their respective rights in the matter of boundaries submitted to arbitration.

¹ Spanish: Reyes, *Tratados del Salvador* (1896), p. 247.

For the convention to which this was additional, see No. 79 *ante*, p. 115.
Ratified by Salvador, February 25, 1882.

ARTICLE II

As soon as this convention is ratified it shall be communicated officially by the high contracting parties to His Excellency the arbiter appointed, in order that the latter may begin to adjudicate the matter upon the documents which have been or may be sent to him; and

ARTICLE III

The present convention shall be considered as additional to the preliminary arbitral convention concluded by the two parties on the eighteenth day of December of the year eighteen hundred and eighty.

In witness whereof, the undersigned sign this additional convention in duplicate and affix their respective seals thereto.

Concluded in the city of Tegucigalpa, on the twenty-third day of the month of August of the year eighteen hundred and eighty-one.
[Here follow signatures.]

No. 84

COLOMBIA—VENEZUELA

*Treaty for arbitration of the boundary according to the principle, uti possidetis juris of 1810.—Signed at Carácas, September 14, 1881*¹

The United States of Colombia and the United States of Venezuela, and in their name their respective constitutional Presidents, being desirous to put an end to the question of the territorial boundaries which, for the space of fifty years, has unsettled their relations of sincere friendship, and natural, ancient, and indispensable fraternity, in order to arrive at an exact legal delimitation of the territory such as existed by the ordinances of their ancient common sovereign, and either party having produced as proof for so long a period all the titles, documents, proofs, and authorities existing in their archives in repeated negotiations, without having been able to come to an

¹ English: *British and Foreign State Papers*, vol. LXXIII, p. 1107.

Spanish: *Tratados Públicos de Colombia* (1883), p. 83.

See additional treaty of February 15, 1886, No. 103, *post*, p. 157.

Approved by the Congress of Colombia, March 28, 1882; and by the Congress of Venezuela, April 7, 1882; ratifications exchanged at Carácas, June 9, 1882. The text in Spanish is also in La Fontaine, *Pasicrisie internationale*, p. 512; and in Uribe, *Anales Diplomáticas y Consulares de Colombia*, vol. I, p. 94.

agreement as to their respective right or *uti possidetis juris* of 1810, animated by the most cordial sentiments, have agreed and agree to nominate their respective plenipotentiaries to negotiate and conclude a treaty of arbitration *juris*, and have nominated to negotiate and conclude such treaty, the Government of Colombia, its Minister Resident in Carácas, Doctor Justo Arosemena; and that of Venezuela, the Honorable Antonio L. Guzman, Adviser of the Ministry of Foreign Affairs;

Who, having found their respective powers in due form and in conformity with their instructions, have agreed on the following articles:

ARTICLE I

The said high contracting parties submit to the judgment and decision of the government of His Majesty the King of Spain, in the capacity of arbitrator and umpire, the points of difference in the said question of boundaries, in order to obtain a definite decision, not admitting of any appeal, in accordance with which all the territory appertaining to the jurisdiction of the ancient Captaincy General of Carácas by royal decrees of the ancient sovereign down to 1810, shall continue to be in the territorial jurisdiction of the Republic of Venezuela, and all that territory which by similar decrees and at that date belonged to the Vice Royalty of Santa Fé, shall continue to be the territory of the existing republic called the United States of Colombia.

ARTICLE II

Both the contracting parties, as soon as the ratifications of this treaty are exchanged, shall communicate to His Majesty the King of Spain the prayer of both governments that His Majesty will accept the above-mentioned jurisdiction, and this representation shall be made by means of plenipotentiaries and simultaneously; and eight months subsequently the same or other plenipotentiaries will present to His Majesty, or to the minister appointed by His Majesty, an explanation or statement, in which they set forth their views and the documents upon which they base them.

ARTICLE III

From that date the plenipotentiaries, representing their respective governments, will be authorized to receive the communications which the august tribunal may consider necessary to address to them, and will comply with the requirement or requirements imposed upon them

by such communications to elucidate the truth of the cause which they represent, and will wait for the judgment; which, as soon as they have received it, they will communicate to their respective governments: the decree becoming effective by the fact of its being published in the official periodical of the government which has pronounced it, and establishing compulsorily forever the delimitation of the legal territorial boundary of the two republics.

ARTICLE IV

This treaty having been approved by the Governments of Colombia and Venezuela as soon as possible, and having been ratified by the legislative bodies of each republic in their next session, the ratifications shall be exchanged at Carácas without any extension of the limit of time.

In witness whereof we, the plenipotentiaries of the United States of Colombia and the United States of Venezuela, have agreed to it, and signed and sealed it with our private seals, in duplicate, at Carácas on the fourteenth of September, one thousand eight hundred and eighty-one.

[Here follow signatures.]

No. 85

DOMINICAN REPUBLIC—SALVADOR

Convention for general arbitration.—Signed at Paris, July 3, 1882¹

It being of great importance to give a solid foundation to the cordial relations of friendship which have always existed between the Dominican Republic and the Republic of Salvador, and at the same time to maintain the sentiments of international fraternity which should serve as the basis of the peace and prosperity of the Americas, General Don Gregorio Luperón, former President of the Dominican Republic and Envoy Extraordinary and Minister Plenipotentiary to various European courts, and Dr. Don José Maria Torres Caicedo, Envoy Extraordinary and Minister Plenipotentiary of Salvador to various European courts, have determined to celebrate,

¹ Spanish: de Martens, *Nouveau recueil*, 2d series, vol. xiv, p. 207.

Ratifications exchanged at Paris, October 16, 1883. The text in Spanish is also found in *Tratados del Salvador* (1884), p. 298; and in Wiese, *Arbitramiento Internacional*, p. 68.

in the name of the governments which they represent and *ad referendum*, a convention, and to that end have agreed upon the following articles:

ARTICLE I

The Dominican Republic and the Republic of Salvador contract the perpetual obligation of submitting to arbitration, when the solution can not be reached through diplomatic means, the controversies and difficulties of any nature whatsoever which may arise between the two nations notwithstanding the zeal which their respective governments shall constantly employ in order to avoid them.

ARTICLE II

The designation of the arbiter, when the occasion may require the naming of one, shall be made in a special convention in which are also clearly determined the question in litigation and the course of action to be observed in the arbitral procedure.

If an agreement should not be reached for celebrating such a convention, or if this formality should be expressly dispensed with, an arbiter chosen as such by common consent shall be fully authorized to act.

ARTICLE III

The Dominican Republic and the Republic of Salvador, shall endeavor at the first opportunity, to celebrate with the other American nations conventions analogous to the present, in order that the solution by arbitration of all disputes between them shall be definitively agreed upon.

ARTICLE IV

This convention shall be ratified by the high contracting parties, according to their respective formalities, and the ratifications shall be exchanged in Paris within the shortest time possible.

In faith whereof they sign and seal the present treaty in Paris, the third of July, one thousand eight hundred and eighty-two.
[Here follow signatures.]

No. 86

GUATEMALA—MEXICO

Provision for the arbitration of disputes which might arise out of the execution of this instrument which was a preliminary boundary agreement.—Signed at New York, August 12, 1882¹

ARTICLE IV

In case the two contracting parties should not be able to agree with regard to the partial or total designation of the boundaries between the Mexican State of Chiapas, including its Department of Soconusco, on the one side, and the Republic of Guatemala on the other, or in case the Commissioners appointed by each government to effect, by mutual agreement, the demarcation of the boundary line, should differ on one or more points relating to the said demarcation, and it should be necessary to name an umpire to adjust the differences which on this account may arise, the two governments agree to do so, and that the President of the United States of America be requested to act as umpire or arbitrator.

No. 87

COSTA RICA—NICARAGUA

Provision for general arbitration, in a boundary treaty.—Signed at Granada, February 5, 1883²

ARTICLE XV

Neither of the two republics may enter into agreements offensive or defensive which may be to the damage or injury of the other; and in

¹ English: *British and Foreign State Papers*, vol. LXXIII, p. 273.

Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Gualtemalteco)*, vol. I (1892), p. 322.

The concluding paragraph of the agreement expressly provided that no ratification of this document was necessary, since the definitive boundary treaty which this provided should be concluded within six months would be submitted for approval by the two governments in the regular manner. The anticipated definitive boundary treaty, which was in entire harmony with this preliminary agreement, was signed at Mexico on September 27, 1882, and ratifications of it were exchanged at the same place on May 1, 1883.

² Spanish: Bonilla, *Tratados Internacionales de Nicaragua* (1909), p. 441.

No certain evidence is at hand whether the treaty was or was not ratified, or whether the ratifications were exchanged. It was approved by the executive, and submitted to the legislative, power of Nicaragua on February 9, 1883. The treaty is listed in the table of contents of the source cited as "*Insubsistente*," which merely means that it was not in force when the book was published; but it seems to imply that it had once been in force. The text is printed also in *Tratados Internacionales de Costa Rica* (1893), p. 299, but there is no statement or implication concerning approval, ratification, or exchange.

the event that one of them should be attacked by a third state the other, when not under obligation or when unable to lend aid to the aggrieved, shall be obliged to maintain the strictest neutrality in regard to the conflict.¹

As regards the differences which might arise between the two contracting republics, all shall be terminated, whatever their origin and nature, by means of arbitration.

No. 88

SALVADOR—URUGUAY

Convention for general arbitration.—Signed at Paris, February 7, 1883²

It being of great importance to give solid foundation to the cordial relations of friendship which have always existed between the Republic of Salvador and the Republic of Uruguay, and at the same time to maintain the sentiments of international fraternity which should serve as a basis for the peace and prosperity of the Americas; J. M. Torres Caicedo, Envoy Extraordinary and Minister Plenipotentiary of Salvador, accredited to various courts of Europe, and Colonel Don J. J. Diaz, Chargé d'Affaires of Uruguay in various European courts, have determined to celebrate, in the name of the governments which they represent, and *ad referendum*, a convention, and to that end have agreed upon the following articles:

ARTICLE I

The Republic of Salvador and the Republic of Uruguay contract the lasting obligation to submit to arbitration, when the solution can not be obtained by diplomatic means, the controversies and difficulties of any nature whatsoever which may arise between the two nations, notwithstanding the zeal constantly employed by their respective governments to avoid them.

¹ The arbitral agreement is contained wholly in the second paragraph of the article quoted; but the first part is also included since it is a peculiar and interesting neutrality agreement, to become operative in case either of the contracting powers should be at war with a third.

² Spanish: de Martens, *Nouveau recueil général de traités*, 2d series, vol. XIV, p. 214. Ratifications exchanged, February 28, 1884, according to Wiesse, *Tratados de Arbitramento*, p. 69, where the text is also found. Reyes, *Tratados del Salvador*, 1884, p. 318, also prints it.

A treaty identical with this, except for the necessary changes in names of countries, was signed at Paris, October 27, 1883, between Costa Rica and Salvador but no evidence is at hand whether it was or was not ratified. The text is printed in *Tratados de Costa Rica*, vol. II (1893), p. 389.

ARTICLE II

The designation of the arbiter, should the necessity arise for naming one, shall be made in a special convention in which shall likewise be clearly determined the question in litigation and the proceedings to be observed in the arbitration.

If an agreement should not be reached for the celebration of such convention, or if it should be expressly agreed to omit this formality, an arbiter chosen as such by common consent shall be fully authorized to act.

ARTICLE III

The Republic of Salvador and the Republic of Uruguay will endeavor at the first opportunity to conclude with the other American nations conventions similar to the present in order that the solution, by means of arbitration, of all conflicts between them may be definitely agreed upon.

ARTICLE IV

This convention shall be ratified by the high contracting parties according to their respective customs, and the ratifications shall be exchanged in Paris within the shortest possible time.

In faith whereof they sign and seal the present treaty in Paris, February seven, one thousand eight hundred and eighty-three.
[Here follow signatures.]

No. 89

PARAGUAY—URUGUAY

Provision for general arbitration, in a treaty of peace, friendship, and recognition of debt.—Signed at Asunción, April 20, 1883¹

ARTICLE VIII

If, notwithstanding the purposes which now animate the governments of the Republics of Paraguay and Uruguay, and which tend to preserve and to draw closer the friendly relations fortunately existing between them, serious questions should arise of a nature to compromise those relations, which are the chief aim of the present treaty, the

¹ English: *British and Foreign State Papers*, vol. LXXIV, p. 697.

Spanish: *Tratados del Paraguay* (1890), p. 66.

Ratifications exchanged at Montevideo, November 24, 1883.

two high contracting parties bind themselves, before resorting to extreme measures, to submit such questions to the arbitration of one or more friendly powers.

No. 90

SALVADOR—VENEZUELA

*Provision for general arbitration, in a treaty of friendship, commerce, and navigation.—Signed at Carácas, August 27, 1883*¹

ARTICLE XLII

The high contracting parties solemnly agree to settle all their differences by means of diplomatic negotiations without recurring to warlike demonstrations, and in no case to engage in hostilities against each other; all questions of a complicated nature which might result in war, and where an amicable solution is not attainable, shall be referred to the decision of one or more arbitrators appointed by common consent. Should the two governments not come to an understanding in the choice of an arbitrator, the aggrieved party shall submit three names to the one charged with the offense in order that the latter may, within six months from the date of notification, select from them an arbiter who shall settle the dispute.

No. 91

CHILE—PERU

*Provision for the arbitration of claims, in a treaty of peace and friendship.—Signed at Lima, October 20, 1883*²

ARTICLE XII

The indemnities which Peru may owe to Chileans who have suffered injuries through the war shall be submitted either to a tribunal of arbitration or to a mixed international commission, appointed immediately after the ratification of the present treaty, in the form

¹ English: *British and Foreign State Papers*, vol. LXXIV, p. 306.

Spanish: de Martens, *Nouveau recueil général de traités*, 2d series, vol. xiv, p. 222; also in Reyes, *Tratados del Salvador* (1884), p. 329; and Wiese, *Tratados de Arbitramiento*, p. 74. Ratified by Salvador, February 28, 1884; ratifications exchanged at Carácas, December 11, 1884.

² English: *British and Foreign State Papers*, vol. LXIV, p. 351.

Spanish: Aranda, *Tratados del Perú*, vol. iv, p. 658, also in Montes, *Tratados de Chile*, vol. II (1894), p. 162.

Ratifications exchanged at Lima, March 28, 1884.

established by the recent conventions concluded between Chile and the Governments of England, France and Italy.¹

No. 92

NICARAGUA—SALVADOR

Provision for general arbitration, in a treaty of friendship, commerce, and arbitration.—Signed at San Salvador, November 17, 1883²

ARTICLE XXXIII

If any of the articles of this treaty should be violated or infringed, or if any other cause for disagreement should arise between the two republics, it is expressly stipulated that neither of the two contracting parties shall command or authorize acts of reprisal until every means of pacific settlement of the controversy shall have been exhausted. These means shall consist of the explanation, in the form of a memorandum, of the offenses or injuries, verified with proof or competent testimony, to be presented by the government considering itself aggrieved; and if due satisfaction is not accorded, then the decision of the matter shall be submitted to the arbitration of any one of the governments of Central America or of the American continent.

No. 93

GUATEMALA—NICARAGUA

Provision for general arbitration, in a treaty of friendship, commerce, and extradition.—Signed at Guatemala, December 27, 1883³

ARTICLE IV

Should any grounds of misunderstanding or disagreement arise between other states of Central America or between any of them and

¹ The three treaties referred to are Chile—France, November 2, 1882; Chile—Italy, December 7, 1882; Chile—England, January 4, 1883. All are arbitration conventions.

² Spanish: Bonilla, *Tratados de Nicaragua* (1909), p. 305; also in Reyes, *Tratados del Salvador* (1884), p. 293; Wiese, *Tratados de Arbitramiento*, p. 306; and *Tratados de Arbitraje de Nicaragua*, p. 119.

Ratified by Salvador, February 28, 1884, according to Reyes. No evidence is at hand whether it was or was not ratified by Nicaragua, or whether ratifications were or were not exchanged.

³ Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. I (1892), pp. 551, 558; also in Bonilla, *Tratados de Nicaragua* (1909), pp. 66, 75; *Tratados de Arbitraje de Nicaragua*, p. 132; and, Wiese, *Tratados de Arbitramiento*, p. 307.

Ratified by Guatemala, April 25, 1884; but no facts are at hand concerning ratification by Nicaragua or exchange of ratifications.

a foreign nation, the contracting parties by common agreement, or each by itself, shall offer to said states their mediation and good offices in a conciliatory and friendly manner so as to preserve or to reestablish the general harmony of Central America.

ARTICLE XXXV

In case any of the articles of this treaty should be violated or infringed in any manner, or should any ground for misunderstanding between the two republics occur, it is expressly agreed that neither of the contracting parties shall order or authorize acts of reprisal nor declare war until all peaceful means of obtaining satisfaction and reaching an understanding shall have been exhausted. These means shall be an exposition of the offenses or damages caused, accompanied by competent proofs or testimony in memorials presented by the government who believes itself aggrieved; and in case due satisfaction is not given the matter shall be submitted to the arbitral decision of some of the governments of Central America or of any other government of the American continent.

No. 94

COSTA RICA—NICARAGUA

Provision for general arbitration, in a treaty of peace, friendship, commerce, and extradition.—Signed at San José, January 19, 1884¹

ARTICLE II

In no case shall Costa Rica and Nicaragua declare war on one another. Should any difference arise between them, the requisite explanations shall be given; and failing to come to an understanding on the matter, they shall immediately and necessarily adopt the humanitarian and civilized means of arbitration to terminate it.

ARTICLE III

The designation of the arbitrator shall be made by special agreement, setting forth the matter in question, and the procedure which the arbitrator is to follow in the arbitration case.

¹ Spanish: *Tratados de Costa Rica*, vol. II (1893), p. 353; also in Bonilla, *Tratados de Nicaragua* (1909), p. 455.

Each of these collections states that the treaty was approved by the executive branch of its government; but there is no information given whether or not it was actually ratified by either or whether ratifications were or were not exchanged.

Article II of this treaty was repeated as Article II of a treaty between these powers signed October 9, 1885. The complicated arrangements of Article III for carrying out Article II are omitted in the later treaty. See No. 99, *post*, p. 146.

Should the appointment of the arbitrator not have been made by mutual agreement, within six months from the date of the official journal containing the note of one of the contracting parties, which must necessarily be published therein, demanding said appointment from the other, such appointment shall be considered to have been conferred on the Government of that Spanish-American nation which may accept it, to which governments selected in alphabetical order it shall successively be offered until one is found which shall have the graciousness to render such important service.

Except by mutual consent no one of the aforementioned governments which shall be directly or indirectly interested in this or any other matter in common with either of the contracting parties may be called upon to act as arbitrator.

Although only one of the contracting parties should have given notice of the appointment and requested its acceptance, the arbitrator shall call upon both parties, fixing a reasonable term not to exceed ten months, to appear, through their representatives who must be credited with letters patent, to explain and defend their respective cases and present the documents in support thereof.

For the summons to be considered valid, it shall be sufficient that it be made through a diplomatic or consular agent of the arbitrator or of any other friendly nation.

Should either of the parties, by any reason whatsoever, fail to appear through its representative, or to file a documented brief in support of its alleged rights within the term fixed, the arbitrator shall, notwithstanding, proceed to examine the matter submitted on the strength of the evidence furnished by one or both of the parties, and without any other formality shall pronounce the award, which from the date of its notification, to be made in the manner provided for in the summons, shall have all the force and validity of a concluded, obligatory, and unimpeachable treaty between the same contracting parties which hereby waive all claims of any nature whatsoever against the arbitral decision and bind themselves to fulfil, accept, and comply with it, pledging thereto their national honor.

No. 95

BOLIVIA—CHILE

Provision for arbitration of claims, in the truce.—Signed at Valparaiso, April 4, 1884¹

ARTICLE III

Chilean property sequestered by decrees of the Bolivian Government, or by acts emanating from the civil or military authorities, shall be at once restored to its owners or to representatives duly empowered by them. Such proceeds of the said property as may have been received by the Bolivian Government, and of which sufficient documentary evidence is given, shall also be repaid.

Indemnity for injuries received by Chilean subjects in the above manner, or by the destruction of their property, shall be a subject for negotiation between the Bolivian Government and the parties interested.

ARTICLE IV

In the event of disagreement between the Government of Bolivia and the parties interested as to the amount of indemnity or the mode of payment, the disputed points shall be submitted to the arbitration of a commission composed of one member named by Chile, another by Bolivia, and a third selected in Chile by mutual agreement from among the neutral representatives accredited to that country. This appointment shall be made with the least possible delay.

Complementary Protocol.—Signed in Santiago, May 30, 1885

ARTICLE III

For the purposes of the stipulations contained in Article IV of the agreement of truce above referred to, it is declared that the third member of the commission of arbitration who shall estimate and decide upon the claims presented by Chilean citizens against the Bolivian Government shall enter upon the discharge of his functions only when the consideration of any claim shall have given rise to disagreement between the commissioners appointed by Chile and Bolivia.

¹ English: *British and Foreign State Papers*, vol. LXXV, p. 367; and vol. LXXXIII, p. 862. Spanish: Montes, *Tratados de Chile*, vol. II (1894), pp. 169, 256. It is also in Salinas, *Tratados de Bolivia*, vol. III, p. 160, and La Fontaine, *Particizie internationale*, p. 323. Ratifications exchanged at Santiago, November 29, 1884.

No. 96

HAITI—UNITED STATES

*Protocol of an agreement for the arbitration of claims.—Signed May 28, 1884*¹

Whereas, the Government of the United States of America has presented to the Government of Haiti, the claims of Antonio Pelletier and A. H. Lazare for indemnity for acts against person and property alleged to have been done by Haitian authorities; and

Whereas, the Government of Haiti has persistently denied its liability in the premises; and

Whereas, the Honorable William Strong, formerly one of the Justices of the Supreme Court of the United States of America, inspires both the contracting parties with full confidence in his learning, ability and impartiality: therefore

The undersigned Frederick T. Frelinghuysen, Secretary of State of the United States, and Stephen Preston, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Haiti, duly empowered thereto by their respective governments, have agreed upon the stipulations contained in the following articles.

ARTICLE I

The said claims of Antonio Pelletier and A. H. Lazare against the Republic of Haiti shall be referred to the said Honorable William Strong, as sole arbitrator thereof, in conformity with the conditions hereinafter laid down.

ARTICLE II

The following facts as to these two claims are admitted by the Government of Haiti.

AS TO ANTONIO PELLETIER:

That Pelletier was master of the bark *William*, which vessel entered Fort Liberté about the date claimed (31st of March 1861); that the master and crew were arrested and tried on a charge of piracy and

¹ English and French: *United States Statutes at Large*, vol. 23, p. 785. The date of the treaty is erroneously given as May 24 in the heading there printed.

The English text is also in Malloy, *Treaties and Conventions of the United States*, p. 932, the French in La Fontaine, *Pasicrisie internationale*, p. 246, followed by a long account of the awards.

The instrument makes no provision for ratification or exchange. By an additional protocol signed March 20, 1885, the term in which the decision of the arbitrator was to be rendered was extended to July 28, 1885. See Malloy, p. 934.

attempt at slave trading; that Pelletier, the master, was sentenced to be shot and the mate and other members of the crew to various terms of imprisonment; that the Supreme Court of Haiti reversed the judgment as to Pelletier, and sent the case to the Court at Cape Haitian, where he was retried, and sentenced to five years' imprisonment; and that the vessel, with her tackle, was sold, and the proceeds divided between the Haitian Government and the party who, claiming to have suffered by her acts, proceeded against the vessel in a Haitian tribunal.

AS TO A. H. LAZARE:

That Lazare entered into a written contract with the Haitian Government, September 23, 1874, for the establishment of a national bank at Port-au-Prince, with branches—the capital being fixed first at \$3,000,000, and afterwards reduced to \$1,500,000 of which capital the Government was to furnish one-third part and Lazare two thirds; that the bank was to be opened in one year from the date of the contract, and an extension of forty-five days on this time was granted on Lazare's request; and that on the day when the bank was to be opened the Haitian Government, alleging that Lazare had not fulfilled his part of the engagement, declared, in accordance with the stipulations of Article 24 of the agreement, the contract null and void, and forfeited on his, Lazare's, part.

ARTICLE III

The said arbitrator shall receive and examine all papers and evidence relating to said claims, which may be presented to him on behalf of either government.

If, in presence of such papers and evidence so laid before him, the said arbitrator shall request further evidence, whether documentary, or by testimony given under oath before him or before any person duly commissioned to that end, the two governments, or either of them, engage to procure and furnish such further evidence by all means within their power, and all pertinent papers on file with either government shall be accessible to the said arbitrator.

Both governments may be represented before said arbitrator by counsel, who may submit briefs, and may also be heard orally if so desired by the arbitrator.

ARTICLE IV

Before entering upon the discharge of his duties, the said arbitrator shall subscribe to the following declaration:

I do solemnly declare that I will decide impartially the claims of Antonio Pelletier and A. H. Lazare preferred on behalf of the Government of the United States against the Government of the Republic of Haiti; and that all the questions laid before me by either government in reference to said claims shall be decided by me according to the rules of international law existing at the time of the transactions complained of.

ARTICLE V

The said arbitrator shall render his decision, separately, in each of the aforesaid cases, within one year from the date of this agreement.

ARTICLE VI

The high contracting parties will pay equally the expenses of the arbitration hereby provided; and they agree to accept the decision of said arbitrator in each of said cases, as final and binding, and to give to such decision full effect and force, in good faith, and without unnecessary delay or any reservation or evasion whatsoever.

In witness whereof, the undersigned have hereunto set their hands and seals this twenty-eighth day of May, 1884.

[Here follow signatures.]

No. 97

COLOMBIA—ECUADOR

Convention for the arbitration of claims of citizens of the former against the government of the latter.—Signed at Quito, June 28, 1884¹

The Republic of Ecuador, represented by José Modesto Espinosa, its Minister of Foreign Affairs, on the one part, and the Republic of the United States of Colombia, represented by Sergio Camargo, its Envoy Extraordinary and Minister Plenipotentiary of Ecuador, on the other part, being desirous to come to an equitable settlement of the claims of the nationals of the last named republic against the first, have agreed on the following convention:

ARTICLE I

All the claims on the part of companies, corporations, or individuals who are citizens of the United States of Colombia which have been

¹ Spanish: Noboa, *Tratados del Ecuador* (1902), vol. II, p. 193.

Approved by the legislative body of Ecuador July 7, 1885. No further evidence is at hand concerning dates of ratification by either country or exchange of ratifications. However the authority cited states that the amounts which the arbiters decreed were paid. The treaty is not given in the official *Tratados Públicos de Colombia*, nor in Uribe's *Anales Diplomáticos de Colombia*. The latter, however, vol. IV, pp. 370-5, describes the circumstances attending the execution of the treaty and gives a list of the awards.

made up to the present time or to be made within the term to be hereafter determined, against the Republic of Ecuador for expropriations, supplies, loans, damages, exactions, and grievances suffered by said citizens, shall be submitted to the decision of a commission of arbiters composed of two members, one of which shall be appointed by the Government of Colombia and the other by that of Ecuador. In case of death, absence, resignation, inability or incapacity of one of the arbiters, or in the event of one of them ceasing to act as such, the Government of Guatemala or that of Ecuador, respectively, or the Minister or Consul General of the first named nation in Ecuador, the latter being duly authorized, shall proceed to fill up the vacancies which may occur.

The arbiters named shall meet in the city of Quito within one hundred and twenty days from the date of the exchange of the ratifications of the present convention, and before proceeding to discharge their duties, they shall execute an oath of office wherein they shall bind themselves to examine scrupulously and to decide with impartiality and justice (keeping themselves at the same time within the terms of this convention) all the claims to be submitted to them by the Government of Colombia or by its representative in Ecuador.

The arbiters shall proceed forthwith to appoint an umpire to decide in the case or cases where the first two may not come to an agreement, or to decide on any divergence of opinion which may arise during the course of the proceedings. But if said arbiters should not be able to agree on the election of the umpire, each one of them shall name a person to act as such; and it shall be determined by lot which of the two persons named by them shall act as umpire in each case of disagreement. The person or persons appointed by the arbiters to act as umpire in case of discord, shall in each case, before taking charge of their office, execute an oath of office in the same manner as that provided for the arbiters in this article. In case of the absence of such persons for any reason, the substitutes shall be appointed by the same arbiters and in the manner aforesaid.

ARTICLE II

After the umpire, or the two persons from whom the umpire shall be chosen by lot, are appointed, the arbiters shall proceed to examine the claims presented to them according to the articles of this convention and shall hear the attorneys whom each party may wish to present.

Both governments shall, at the request of any of the arbiters or of the claimants, furnish the documents which they may possess and deem important for the adjudication of the claims.

In order to verify the several facts which have given rise to the claims, the commission shall accept the documents presented and the written or verbal testimony offered in accordance with the rules of procedure which the same commission prescribes after it has been organized.

In those cases in which an indemnity is granted, the arbiters shall determine the total liquid sum to be paid, taking into consideration in each case the damage suffered by death, wounds, violence, offenses and destruction of property.

In the cases in which the two arbiters may not come to an agreement they shall submit the point or points of discord to the decision of the umpire before whom the arbiters may be heard and whose decision shall be final.

ARTICLE III

The commission of arbiters shall decide the claims on the merits of the evidence presented in accordance with the principles of international law and the legal precedents established by analogous modern tribunals of high authority.

In each final judgment, they shall briefly state the facts and bases of the claim, the motives alleged in support of or against them, and the principles of international law which justify the decision.

The original copies of the judgments shall remain attached to the respective records in the office of the Minister for Foreign Affairs of Ecuador.

The commission of arbiters shall keep a registry book where they shall enter the proceedings, the petitions of the claimants, and the decrees and decisions to be rendered by both the high commission and the umpire.

ARTICLE IV

The arbiters shall issue certificates of the amounts to be paid, under their judgments or under that of the umpire, to the claimants; and the collective amount of all sums decreed for by the judgments of the arbiters or by those of the umpire, shall be paid to the government of the claimants. The payment of the total indebtedness shall be made in annual equal instalments until the total is cancelled within the term of four years. In order to meet that payment, the Government of Ecuador shall lay aside up to five per cent of the net proceeds of

its custom house revenues which shall be left on deposit in one of the banks of the Republic of Ecuador from the date of the exchange of the ratifications of this convention; but should these funds be insufficient to amortize in each period the corresponding quota, the Government of Ecuador shall provide sufficient means for that purpose.

From the date on which judgment is rendered admitting any claim, the amount of said claim shall begin to earn for the claimant the interest of six per cent per annum until the debt is completely amortized.

ARTICLE V

The commission of arbiters shall cease to act within the year after it has been organized and may appoint a secretary to assist it in the discharge of its work.

ARTICLE VI

The judgment of the commission of arbiters shall be final and shall put an end to the claims decided thereby. The claims which are not presented during the first ten months of the year in which the commission is to act shall not be admitted or considered. If, at the termination of the duties of said commission, there should still be some claims pending before the umpire, said umpire shall continue to have authority to render judgment in such cases, which shall be binding upon the two governments as soon as they are notified thereof, provided said judgments are rendered within the sixty days following the termination of the duties of the commission of arbiters. After the lapse of this term, his authority shall cease.

ARTICLE VII

Each government shall pay for the services of its arbiter, but the services of the umpire and of the secretary, to be appointed, as well as all the incidental expenses of the commission, shall be covered by the two governments in equal shares.

ARTICLE VIII

If the Government of Ecuador should obtain from the legislative body the power to decide through administrative channels the claims to which this convention refers, the Colombians who may prefer to employ these means shall be free to do so, provided the claims shall not have been decided finally by the commission.

ARTICLE IX

The present convention which the Colombian Minister signs *ad referendum*, shall be ratified after the approval by their respective legislatures and the ratifications shall be exchanged in the city of Quito in the shortest time possible.

In witness whereof the undersigned Minister of Foreign Affairs for Ecuador on the one part and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of the United States of Colombia in Ecuador, on the other part, have signed in duplicate and sealed with our respective seals the present agreement in Quito, the capital of the Republic, this twenty-eighth day of June, one thousand eight hundred and eighty-four.

[Here follow signatures.]

No. 98

HAITI—UNITED STATES

*A verbal agreement for the arbitration of claims of citizens of the latter against the government of the former (which was confirmed, and for the execution of which the details were arranged by the following exchange of notes).—Concluded at Port-au-Prince, January 25, 1885*¹

Mr. Langston to Mr. St. Victor

LEGATION OF THE UNITED STATES,
PORT-AU-PRINCE, HAITI, *February 11, 1885.*

SIR: According to the understanding already had between us, I have the honor to advise you that I have selected the American citizens, Messrs. Charles Weymann and Edward Cutts, of this city, as members on behalf of the Government of the United States of the mixed commission, to be constituted by us to consider and determine the amount due the American citizens, severally, whose property was destroyed at Port-au-Prince, on the twenty-second and twenty-third days of September, 1883, in connection with the events occurring in this city at that time. It would please me to meet you at an early

¹ English: *Foreign Relations of the United States*, 1885, pp. 501, 503.

This is a peculiar arrangement. No text of the convention exists. The notes revealing the agreement were exchanged in English so that no French text of them exists. No provision was made for ratification or exchange; but accompanying documents show that the award was made and claims were paid. La Fontaine, *Pasicrisie internationale*, pp. 291-3, quotes the first note and several related documents.

day to determine when and where the commission, when organized, shall hold its sessions.

JOHN MERCER LANGSTON.

Mr. St. Victor to Mr. Langston

DEPARTMENT OF STATE OF FOREIGN RELATIONS,
PORT-AU-PRINCE, *February 12, 1885.*

MR. MINISTER: In accordance with the agreement existing between us since Sunday, the twenty-fifth of last month, and confirmed by your dispatch of the eleventh instant, received yesterday, I have the honor to advise you that, with Messrs. Charles Weymann and Edward Cutts, whom you have named, will be joined Messrs. B. Allemand, president of the tribunal of cassation, and C. A. Preston, designated by the Government of the Republic to form a mixed commission to which shall be submitted the American reclamations growing out of the events of September 22 and 23, 1883.

I have the honor in consequence to communicate to you, herewith enclosed, the text of the instructions in conformity with which the commission should examine such reclamations.

I do not doubt, Mr. Minister, that you will ratify these instructions, which are drawn up according to justice and equity. Thus I have the hope that your next response to this communication will express your entire compliance.

In that which concerns the sessions of the mixed commission, I would add that it will itself choose its place and will fix the day and hour of its meetings.

You will accept, etc.,

B. ST. VICTOR.

Mr. Langston to Mr. St. Victor

LEGATION OF THE UNITED STATES,
PORT-AU-PRINCE, HAITI, *February 21, 1885.*

SIR: In acknowledging the receipt of your amended instructions by the hand of Mr. Weymann, to the members of the mixed commission named by you, to replace the former instructions, which according to your desire I herewith return, always holding in mind the verbal understanding to which we have come in the premises, I have the honor to advise you that I am content to proceed to the examination and settlement of the indemnities of American citizens for property

lost in connection with the events of the twenty-second and twenty-third days of September, 1883, at Port-au-Prince, before the Commissioners, Messrs, Lallemand and Preston, as named by you, and Messrs. Weymann and Cutts, as named by me, they to have the power, conjointly, in case of their inability to agree upon the indemnity, to be allowed to name an umpire to act with them upon such matter.

With the renewal, etc.,

JOHN MERCER LANGSTON.

No. 99

COSTA RICA—NICARAGUA

*Provision for general arbitration in a treaty of friendship, commerce and extradition.—Signed at San José, October 9, 1885*¹

ARTICLE II

In no case shall Costa Rica and Nicaragua make war on one another. Should any difference arise between them, they shall give one another due explanations; and in case of failure to come to an agreement in regard to the matter in question, they shall adopt precisely and unavoidably the humanitarian and civilized means of arbitration to terminate it.

¹ Spanish: Bonilla, *Tratados Internacionales de Nicaragua* (1909), p. 489; or *Tratados de Costa Rica*, vol. II (1893), p. 379.

Approved by the Nicaraguan executive November 1, 1885. No further fact concerning ratification or exchange occurs in either of the sources.

This Article II is identical with Article II of the treaty of January 19, 1884, between these powers. See No. 94, *ante*, p. 135.

No. 100

UNITED STATES—VENEZUELA

*Convention for the arbitration of disputes growing out of awards made by the arbitral commission under the convention of April 25, 1866.—Signed at Washington, December 5, 1885*¹

The President of the United States of America having on the 3d day of March 1883, approved the following Joint Resolution of Congress: (Public Resolution No. 26)

Joint Resolution providing for a new Mixed Commission in accordance with the treaty of April twenty-fifth, eighteen hundred and sixty-six, with the United States of Venezuela.

Whereas since the dissolution of the Mixed Commission appointed under the treaty of April twenty-fifth, eighteen hundred and sixty-six, with the United States of Venezuela, serious charges, impeaching the validity and integrity of its proceedings, have been made by the Government of the United States of Venezuela, and also charges of a like character by divers citizens of the United States of America, who presented claims for adjudication before that tribunal; and

Whereas, the evidence to be found in the record of the proceedings of said commission, and in the testimony taken before committees of the House of Representatives in the matter, tends to show that such charges are not without foundation, and

Whereas it is desirable that the matter be finally disposed of in a manner that shall satisfy any just complaints against the validity and integrity of the first Commission, and provide a tribunal under said treaty constructed and conducted so as not to give cause for just suspicion; and

Whereas, all evidence before said late Commission was presented in writing and is now in the archives of the State Department; and

¹ English: Malloy, *Treaties and Conventions of the United States*, vol. II, p. 1858; or *United States Statutes at Large*, vol. 28, p. 1053.

Spanish: *Tratados Públicos de Venezuela* (1910), p. 252.

For convention of April 25, 1866, see No. 46, *ante*, p. 68.

Ratifications were not exchanged within the stipulated period of one year because doubts had arisen concerning "the true intent and meaning of Article IX." On March 15, 1888, a new convention was signed in which the doubts were removed by the following: "Article I. It is understood and agreed that in the event of any of the awards of the mixed commission under the Convention of April 25, 1866, being annulled in whole or in part by the commission authorized and created by Article II of the treaty of December 5, 1885, no new award shall in any case be made by said commission, to the holders of certificates of any award or awards annulled as aforesaid, in excess of the sum which may be found to be justly due to the original claimant." The second article provided that the time for the exchange of the ratifications of the convention of December 5, 1885, be extended "to a period not exceeding five months from the date of this convention" of March 15, 1888; and the third article provided that this new convention was to be ratified and exchanged within the same five months period. Before the expiration of this time both governments had ratified and authorized the exchange; but the Venezuelan ratification did not reach Washington until after it was too late. Still another convention, signed October 5, 1888, provided for an additional ten months extension beyond August 15, 1888; and before the expiration of this extension the ratifications were exchanged of all three on June 3, 1889.

ARTICLE II

All claims on the part of corporations, companies, or individuals, citizens of the United States, upon the Government of Venezuela, which may have been presented to their government or to its legation at Carácas, before the first day of August, 1868, and which by the terms of the aforesaid convention of April 25, 1866, were proper to be presented to the mixed commission organized under said convention shall be submitted to a new commission, consisting of three commissioners one of whom shall be appointed by the President of the United States of America, and one by the President of the United States of Venezuela, and the third shall be chosen by these two commissioners; if they cannot agree within ten days from the time of their first meeting as hereinafter provided, then the diplomatic representative of either Russia or Switzerland at this capital shall be requested by the Secretary of State and Venezuelan Minister at Washington to name the third commissioner.

In case of the death, resignation or incapacity of any of the commissioners, or in the event of any of them omitting or ceasing to act, the vacancy shall be filled within three months by naming another commissioner in like manner as herein provided for the original appointment.

ARTICLE III

The commissioners so appointed shall meet in the city of Washington at the earliest convenient time within three months from the exchange of the ratifications of this convention and shall, as their first act in so meeting, make and subscribe a solemn declaration that they will carefully examine and impartially decide, according to justice and in compliance with the provisions of this convention, all claims submitted to them in conformity herewith, and such declaration shall be entered on the record of their proceedings.

ARTICLE IV

The concurring judgment of any two commissioners shall be adequate for every intermediate decision arising in the execution of their duty, and for every final decision or award.

ARTICLE V

So soon as the commission shall have organized, notice shall be given to the respective governments of the date of organization and

of readiness to proceed to the transaction of the business of the commission.

The commissioners shall thereupon proceed without delay to hear and examine all the claims which by the terms of the aforesaid convention of April 25, 1866, were proper to be presented to the mixed commission organized under the convention of April 25, 1866; and they shall to that end consider all the evidence admissible under the aforesaid convention of April 25, 1866, in respect to claims adjudicable thereunder, together with such other and further evidence as the claimants may offer through their respective governments, and such further evidence as may be offered to rebut any such new evidence offered on the part of the claimant, and they shall, if required, hear one person on behalf of each government on every separate claim.

All the papers and evidence before the said former commission, now on file in the archives of the Department of State at Washington, shall be laid before the commission; and each government shall furnish, at the request of the commissioners, or of any two of them, all such papers and documents in its possession as may be deemed important to the just determination of any claim.

ARTICLE VI

The commissioners shall make such decision as they shall deem, in reference to such claims, conformable to justice.

The concurring decisions of the three commissioners, or of any two of them, shall be conclusive and final. Said decisions shall in every case be given upon each individual claim, in writing, stating in the event of a pecuniary award being made, the amount or equivalent value of the same, expressed in gold coin of the United States of America; and in the event of interest being allowed for any cause and embraced in such award, the rate thereof and the period for which it is to be computed shall be fixed, which period shall not extend beyond the close of the commission; and said decision shall be signed by the commissioners concurring therein.

In all cases where the commissioners award an indemnity as aforesaid, they shall issue one certificate of the sum to be paid to each claimant, respectively, by virtue of their decisions, inclusive of interest when allowed, and after having deducted from the sum so found due to any claimant or claimants any moneys heretofore paid by the Department of State at Washington upon certificates

issued to such claimants, respectively, upon awards made by the former mixed commission under the convention of April 25, 1866. And all certificates of awards issued by the said former mixed commission shall be deemed canceled from the date of the decision of the present commission in the case in which they were issued.

The aggregate amount of all sums awarded by the present commission, and of all sums accruing therefrom, shall be paid to the United States. Payment of said aggregate amount shall be made in equal annual payments to be completed within ten years from the date of the termination of the labors of the present commission. Semi-annual interest shall be paid on the aggregate amount awarded, at the rate of five per cent per annum from the date of the termination of the labors of the commission.

ARTICLE VII

The moneys now in the Department of State actually received from the Government of Venezuela on account of the awards of said former mixed commission under the convention of April 25, 1866, and all moneys that may hereafter be paid on said former account by the Government of Venezuela to the Government of the United States, shall be credited to the Government of Venezuela in computing the aggregate total which may be found due to the Government of the United States under the stipulations of the preceding article, and the balance only shall be considered as due and payable with interest in ten annual payments as aforesaid. Provided, however, that in the event of the aggregate amount which the present commission may find due to the Government of the United States being less than the aggregate of the sums actually received from the Government of Venezuela, and remaining undistributed in the Department of State, at Washington, the Government of the United States will refund such excess to the Government of Venezuela within six months from the conclusion of the labors of the commission. The payment of moneys due from the Government of Venezuela to the Government of the United States under the former convention of April 25, 1866, shall be deemed to have ceased from the first day of April, 1883, to be resumed should occasion arise as hereinbefore provided.

ARTICLE VIII

In the event of the annulment of any awards made by the former mixed commission under the convention of April 25, 1866, the Gov-

ernment of the United States is not to be regarded as responsible to that of Venezuela for any sums which may have been paid by the latter government on account of said awards, so far as said sums may have been distributed. In like manner, if the awards made by the present commission and the certificates issued by it shall in any cases be found less than the amount heretofore paid to the claimants from the moneys received from Venezuela, the Government of the United States shall not be regarded as responsible by reason thereof to the Government of Venezuela.

The rehearing provided in the present convention affects, as against the Government of the United States, only the installments of moneys paid to and now held by the United States, and those hereafter to be paid; and the effect of such annulment or reduction in any case shall be to discharge the Government of Venezuela, wholly and forever, from any obligation to pay further installments in such case, except as provided in the present convention.

ARTICLE IX

It is further agreed that if the commission, hereunder organized shall in whole or part annul any money awards made in any cases by the former mixed commission under the convention of April 25, 1866, it shall be the duty of the commission to examine and decide whether, under all the circumstances, and with due regard to principles of justice and equity, there are any third parties who have, with the observance of due care and diligence, become possessed, prior to the date of the exchange of ratifications hereof, for a just and valuable consideration, of any portion of the certificates of award heretofore issued in said claims, and whether, under the constitution or laws of either of the contracting parties, said third parties have acquired vested rights by virtue of the awards of the former commission under the convention of 1866, imposing the duty on the Government of the United States to collect from Venezuela the amount or proportion of said certificates of awards which may be held and owned by third parties.

If the present commission shall decide that there are third parties who are possessed of vested rights, then it shall examine and ascertain the sum paid by each and all of said third parties for their respective interests or shares in said awards, and shall fix the amount of their said interest in said certificates of award or each of them, and shall issue new certificates of award for the sums so adjudged

due, which shall be paid by Venezuela to the United States in the manner hereinbefore stipulated, the same as all other certificates issued by the present commission.

ARTICLE X

Upon the conclusion of the labors of the commission organized in virtue of this present convention, the Department of State of the United States of America shall distribute *pro rata* among the holders of the certificates which may be issued under the present convention, the moneys in the Department of State actually received from the Government of Venezuela on account of the awards of the former mixed commission under the convention of April 25, 1866; and all moneys that may hereafter be paid to the United States under this present convention shall be in like manner distributed *pro rata* in payment of such awards as may be made under this present convention.

ARTICLE XI

The decisions of the commission organized under this present convention shall be final and conclusive as to all claims presented or proper to be presented to the former mixed commission.

ARTICLE XII

The commission appointed under this present convention shall terminate its labors within twelve months from the date of its organization. A record of the proceedings of the commission shall be kept, and the commissioners may appoint a secretary.

ARTICLE XIII

Notwithstanding that the present commission is organized in consequence of representations made by the Government of Venezuela and that it deals solely with the claims of citizens of the United States (for which reasons the United States might properly claim that all the expenses hereunder should be borne by Venezuela alone) it is agreed that, in continuation of the arrangement made in the former convention of 1866, the expenses shall be shared as follows: each government shall pay its own commissioner and shall pay one-half of what may be due to the third commissioner and the secretary, and one-half of the incidental expenses of the commission.

ARTICLE XIV

Except so far as revived, continued, modified and replaced by the terms and effects of this present convention, the effects of the

former convention of April 25, 1866, shall absolutely cease and determine from and after the date of the exchange of ratifications of this present convention, and the high contracting parties hereby agree that the responsibilities and obligations arising under said former convention shall be deemed wholly discharged and annulled by the substitution therefor of the responsibilities contracted and obligations created under this present convention, to which the high contracting parties mutually bind themselves to give full, perfect and final effect, without any evasion, reservation or delay whatever.

ARTICLE XV

The present convention shall be ratified by the President of the United States of America by and with the advice and consent of the Senate of the United States of America and by the President of the United States of Venezuela by and with the advice and consent of the Senate of the United States of Venezuela and the ratifications shall be exchanged at Washington within twelve months from the date of this present convention, and the publication of the exchange of ratifications shall be notice to all persons interested.

In testimony whereof the respective plenipotentiaries have hereto affixed their signatures and seals.

Done in duplicate, in the English and Spanish languages, at the city of Washington, this fifth day of December 1885.

[Here follow signatures.]

No. 101

NICARAGUA—SALVADOR

*Provision for general arbitration in a convention for the restoration of relations.—Signed at Amapala, January 13, 1886*¹

ARTICLE IV

Whatever may be the motives of disagreement that in future may unfortunately occur, the Governments of Nicaragua and Salvador solemnly stipulate to abide by arbitration as a necessary and civilized

¹ English: *British and Foreign State Papers*, vol. LXXVII, p. 476.

Spanish: *Tratados de Arbitraje de Nicaragua*, p. 120.

Approved by the Government of Salvador, January 20, 1886; and a decree of the Salvadorian Government of February 10, 1886, declared relations with Nicaragua restored since notice of the approval by Nicaragua of the agreement had been communicated through the Government of Honduras, the intervening power. See Reyes, *Tratados del Salvador* (1896), p. 463, following a copy of the text of the convention.

means of avoiding war, and previously to make use of all pacific measures for satisfaction and agreement.

These measures shall be a statement of the grievances and injuries, verified by proof or by trustworthy witnesses of the government which considers itself aggrieved, and if due explanations or satisfaction be not given, then, as is stipulated, the matter shall be submitted to the arbitration of the diplomatic representatives accredited to Central America, and in case these should object to accepting the duty, it shall be submitted to the decision of one or more friendly governments.

No. 102

COLOMBIA—COSTA RICA

*Supplementary convention for the arbitration of all boundary disputes.—
Signed at Paris, January 20, 1886*¹

The undersigned, namely, Carlos Holguin, Envoy Extraordinary and Minister Plenipotentiary of the United States of Colombia in Spain; and Léon Fernandez, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Costa Rica in Spain, France, and Great Britain, in the desire of obviating the difficulties that might arise as regards the execution of the arbitration convention concluded between the two governments respectively on the twenty-fifth of December, 1880, and considering—

1. That His Majesty the King of Spain, Don Alfonso XII, having agreed verbally to accept the office of umpire which the undersigned proposed to him, in the name of their respective governments, in order to decide the territorial questions pending between the two republics, and that thereby the convention of arbitration of the twenty-fifth of December, 1880, has already begun to be executed before the Government of Spain;

2. That it will be in the interests of both republics to continue there the proposed arbitral proceedings, because of the fact that in the archives of Spain are to be found the greater number of the original documents that will have to be made use of in order to prove effectu-

¹ English: *British and Foreign State Papers*, vol. xcii, p. 1034.

Spanish: *Tratados de Costa Rica*, vol. i (1892), p. 372.

For convention of December 25, 1880, to which this was additional, see No. 81, *ante*, p. 120.

Approved by the governments and legislatures of the two countries, and ratifications exchanged January 29, 1887. The text in Spanish is also found in La Fontaine, *Pacificisme internationale*, p. 394.

ally, and with full knowledge of the causes, the pending question of boundaries; and moreover because there are there a number of competent persons who have made a special study of American affairs, and whose opinion and advice will materially contribute to the true and just settlement of the case; and

3. That the deplorable premature decease of His Majesty Don Alfonso XII might give rise to doubt concerning the competency of his successor to carry on the arbitration proceedings to a definite conclusion; have agreed to conclude the following convention, *ad referendum*, additional to that signed at San José on the twenty-fifth of December, 1880, by the plenipotentiaries of Colombia and Costa Rica, for the settlement of the question of the boundary pending between the two republics:

ARTICLE I

The United States of Colombia and the Republic of Costa Rica recognize and declare that, notwithstanding the decease of His Majesty Don Alfonso XII, the Government of Spain is competent to continue the arbitration proposed by the two republics, and to pronounce, irrevocably and without appeal, a definite judgment in the dispute respecting the territorial limits pending between the two contracting parties.

ARTICLE II

The territorial limits claimed by the United States of Colombia extends, on the Atlantic side, as far as Cape Gracias á Dios inclusive; and, on the Pacific side, as far as the mouth of the River Golfito in Dulce Gulf. The territorial limit claimed by the Republic of Costa Rica on the Atlantic side extends up to the Island of the Escudo de Veragua and the River Chiriqui (Calobebora) inclusive; and, on the Pacific side, as far as the River Chiriqui-Viejo inclusive, to the east of Punta Burica.

ARTICLE III

The arbitration shall be restricted to the disputed territory contained within the extreme limits here described, and shall not in any manner affect the rights of a third party who, having taken no part in the arbitration, may lay claim to the ownership of territory included within the indicated limits.

ARTICLE IV

If from any cause the umpire shall be unable to deliver his award within the period stipulated in Article II of the arbitration convention

of the twenty-fifth of December, 1880, the high contracting parties may agree to extend the said period for a further ten months to be reckoned from the date of the expiration of the first term.

ARTICLE V

Except for the foregoing additions and modifications the arbitration convention of the twenty-fifth of December, 1880, shall, in all its parts, remain in force.

In faith of which we have signed this in duplicate and sealed it with our respective seals, at Paris, on the twentieth of January, one thousand eight hundred and eighty-six.

[Here follow signatures.]

No. 103

COLOMBIA—VENEZUELA

*Declaratory act confirming treaty for arbitration of the boundary disputes.—Signed at Paris, February 15, 1886*¹

The undersigned, Dr. Carlos Holguin, Envoy Extraordinary and Minister Plenipotentiary of the United States of Colombia to Great Britain and Spain, and General Guzman Blanco, Envoy Extraordinary and Minister Plenipotentiary of Venezuela to Great Britain and Spain, etc., having met at Paris in order to consider the question whether the lamentable death of His Majesty Don Alfonso XII can affect in any way the jurisdiction given to him by their respective governments by the treaty of the 14th of September, 1881, in order to decide, in the capacity of arbitrator, the question pending between them as to the boundaries between the two republics, and having reviewed the aforesaid treaty, and judged that Article I thereof establishes with sufficient clearness, both in spirit and in letter, that it was intended to confide to the actual Government of Spain the same jurisdiction as was exercised by the government which existed under His Majesty Don Alfonso XII, from the date of the exchange

¹ English: *British and Foreign State Papers*, vol. LXXVII, p. 1012.

Spanish: Uribe, *Anales Diplomáticos de Colombia*, vol. I, p. 96.

For the treaty of September 14, 1881, to which this was additional see No. 84, *ante*, p. 126.

Approved by a Colombian law of August 30, 1886. No other facts are at hand concerning the time of ratifications or exchange; but the award of the queen regent of Spain under the treaty of September 14, 1881, and this declaratory act is given in La Fontaine, *Pasicrisie internationale*, p. 513, following the Spanish text of the last.

of the ratifications of the treaty until such time as a decision, which both parties have agreed to respect and comply with, shall be given.

With this end in view, in the before-mentioned article the two parties designated as arbitrator, not His Majesty Don Alfonso XII, but the Government of the King of Spain, without confining it to the reigning sovereign, so as to indicate that any government which might exist in Spain, whether presided over by Don Alfonso XII or by any of his successors, would possess sufficient jurisdiction to take cognizance of and decide the differences submitted to its judgment. Likewise it is to be remembered that the selection of the Spanish Government as judge in this case was particularly due to the circumstance that Spain had been the former owner of the territories which the two republics hold in dispute, and that there exist in the archives of Spain the documents from which the claims of both arise; and, further, that the Peninsula contains many men who have distinguished themselves in American questions.

In virtue of the foregoing, the undersigned make the present declaration which they will direct to the present Government of Her Majesty Doña Christina, the Queen-Regent, explaining that although in their opinion the matter is clear, they will submit this protocol for the ratification of their respective governments in order that all doubts or disagreements may be avoided in future concerning the right here recognized. Moreover, the undersigned have agreed that the arbitrator who is invested with jurisdiction by this declaration will have the power of deciding upon such line of action as may be most in accordance with existing documents, whenever any point may arise about which there is not all the clearness that is desirable.

In faith of which they have signed this Act at Paris, on the fifteenth February, 1886.

[Here follow signatures.]

No. 104

BOLIVIA—PERU

*Provision for arbitrating disputes which might arise out of the execution of this boundary convention.—Signed at La Paz, April 20, 1886*¹

The most excellent Council of Ministers, intrusted with the executive power of the Republic of Peru on the one hand, and His Excellency the constitutional President of the Republic of Bolivia on the other, desiring to preserve intact the fraternal bonds existing between the two republics, and to remove from their relations all motives which might in the future tend to disturb them; desiring, moreover, to render due homage to the principles of justice and conciliation on which South American public law is based, have agreed to open negotiations for resolving and concluding a preliminary boundary treaty and for preparing thus, by pacific and friendly means, the final demarcation of the frontiers of the two countries, and to that end, have named as their plenipotentiaries, the most excellent Council of Ministers of Peru, Mr. Manuel María del Valle, Envoy Extraordinary and Minister Plenipotentiary near the Bolivian Government, and His Excellency the President of Bolivia, Mr. Juan C. Carrillo, Minister for Foreign Affairs, who, after having exchanged their full powers and found them in good and due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree to appoint and constitute respectively a national commission, duly authorized and commissioned to study the frontiers of the two republics and to determine them in accordance with justice and the common interest of the parties.

ARTICLE II

The national commissions shall maintain without change the clearly established frontiers, according to which both nations are in

¹ Spanish: Aranda, *Tratados del Perú*, p. 464.

Approved by the Congress of Peru, September 13, 1886; approved by the Congress of Bolivia, October 26, 1886; ratifications exchanged, June 17, [1887?].

See complementary protocol signed April 24, No. 105, *post*, p. 162.

The arbitral provisions proper are contained in the ninth and twelfth articles; but they are not wholly intelligible without the rest of the treaty which provides for semi-arbitral settlement by a joint commission, disagreements in the proceedings of which were to be solved by the genuine arbitration provided for in the two articles mentioned.

undisputed possession of the respective territories on either side of said frontiers.

ARTICLE III

The Bolivian and Peruvian settlements established in the frontier territories shall always remain subject to the nation to which they belong.

ARTICLE IV

On doubtful, vague or disputed points, the commissions, proceeding by common accord, shall determine the dividing line in accordance with the titles of dominion, possession and use, authentic copies of which shall be produced for the purpose.

In the absence of titles, the dividing line shall be determined according to equity and the mutual interest of the parties.

ARTICLE V

In the cases foreseen in the preceding clause, the commissions shall establish preferably, by means of compensation if necessary, natural boundaries such as rivers, the summits of mountains and mountain ridges, ravines and narrow passes. On the plains the territories shall be separated by means of straight lines with natural points of division and intersection as far as possible.

ARTICLE VI

If, on doubtful or disputed points, the commissions should be unable to agree as to the dividing line, each one of them shall propose the demarcation which in his judgment and in accordance with justice and equity shall be most acceptable and proper.

ARTICLE VII

Having completed their labors, the commissions shall present in a general plan or in partial plans, the sketch of the dividing line fixed between the two states, indicating the portions where the present frontiers have been maintained; those on which others are established by common accord, and those which, by reason of disagreement, are left undetermined. These plans shall be accompanied by the report of the work of each commission.

ARTICLE VIII

Upon the presentation of these reports, the high contracting parties shall proceed to draw up the final treaty of limits, in accord-

ance with the boundaries established by the two commissions, which may be modified by agreement between said parties. The same parties shall determine by mutual consent the delimitation of those points which, for lack of agreement between the commissions, may have been left undetermined.

ARTICLE IX

If, notwithstanding the deliberations of the high parties, the disagreement which had arisen between the commissions should still exist, and, in consequence, one or more points of difference concerning the delimitation remain unsettled, the determination of the dividing line on these points shall be left in every case to the decision of an arbitral tribunal, the boundaries established by common accord in the meantime remaining in force.

ARTICLE X

Until the definitive treaty is concluded and approved the present boundaries shall be maintained and respected.

ARTICLE XI

In the regions of Alto Amazonas the right is recognized in favor of the Republics of Bolivia and Peru to the most free and open navigation on the rivers which cross the territory of both nations, and on those whose respective banks constitute the boundary line, whether they be principal rivers or merely tributaries in which they have common interests.

ARTICLE XII

The nomination and organization of the national commissions, and, when such are necessary, of the arbitral tribunal charged with determining the points in dispute shall be provided for in separate protocols. Measures indispensable for the faithful execution of the present treaty shall be provided for in like manner.

The present treaty shall be ratified in due form by each one of the contracting republics, and the ratifications exchanged as soon as possible in the capital of La Paz.

In faith whereof, we, the plenipotentiaries of the Republic of Peru and of Bolivia, have signed and sealed the present treaty in duplicate.

Done in La Paz de Ayacucho, April twenty, one thousand eight hundred and eighty-six.

[Here follow signatures.]

No. 105

BOLIVIA—PERU

*Complementary protocol for carrying out the arbitral and other provisions of the boundary convention of April 20, 1886.—Signed at La Paz, April 24, 1886*¹

Having met in this city of La Paz, the twenty-fourth day of April, 1886, in the office of Foreign Affairs, the undersigned plenipotentiaries of the Republics of Peru and Bolivia, with the view of facilitating the execution of the preliminary boundary agreement of the twentieth of the current month, have proceeded to stipulate, in accordance with the provision of the last article of said agreement, the manner of the organization of the national commissions, and to designate the sovereign power to fill the high office of arbitral judge in case of discord. And, in consequence, have agreed upon the following articles:

ARTICLE I

The respective commissions which are to be constituted by the high contracting parties shall be composed of two deputy ministers or national representatives, invested with sufficient power to discharge their high trust. Each national commission shall have in its service as many employees as are deemed necessary by its respective government and, besides, a competent engineer, together with assistants needed for the work of exploring, surveying, drawing up plans and for any other work required in the performance of its duties.

ARTICLE II

The national commissioners only shall participate in the deliberations.

Having concluded, with respect to each section of boundaries, the corresponding studies of the titles and proofs of dominion, possession and use, and of the configuration of the frontier territory, as well as of the explorations which shall have been accomplished under previous agreements, the four ministers shall be constituted into an international commission to deliberate and determine by majority vote the delimitation found to be just or proper for both parties.

¹ Spanish: Aranda, *Tratados del Perú*, vol. II, p. 467.

For the convention to which this was complementary see No. 104, *ante*, p. 159.

The dates of approval by the respective countries and of the exchange of ratifications of this protocol were the same as those indicated for the preliminary convention signed four days earlier, No. 104, *ante*, p. 159.

In cases of discord, and even in cases of disagreement of only one of the four voters, the reasons upon which are based the dissenting votes and those of the majority and minority shall be specified in the corresponding record of proceedings, as well as in the report of the respective count.

ARTICLE III

The cities of La Paz in Bolivia and Puno in Peru are designated for the residence of the national commissions during their deliberations and agreements. The commissioners shall alternately choose for their residence either of the said cities according to the nature of their labors and the facilities which they require.

ARTICLE IV

The nomination of the national commissions and their constitution, with the personnel indicated, shall be completed within six months following the date of the exchange of ratifications of the preliminary treaty, the high parties having previously reached an agreement.

ARTICLE V

In cases of disagreement in the determination of boundaries, as foreseen in the said preliminary agreement, both parties agree to choose and elect as arbitral judge, the most excellent Government of the Spanish Nation, which, by reason of the traditional bonds of common civilization which unite the Spanish American republics with the mother country, is interested in maintaining the peace and fraternal harmony which should reign between said republics.

The present protocol shall be ratified in due form, and the ratifications exchanged as soon as possible in the city of La Paz.

In faith whereof, the undersigned plenipotentiaries of the Republics of Peru and Bolivia, duly authorized by their respective governments, have signed and sealed this protocol at the time and place above noted.

[Here follow signatures.]

No. 106

HONDURAS—SALVADOR

Provision for the arbitration of disagreements between commissioners appointed to settle the boundary disputes.—Signed at Tegucigalpa, September 28, 1886¹

The President of the Republic of Salvador and the President of the Republic of Honduras, desiring to put an end to the question of limits existing between the two republics, have resolved to conclude a convention for that purpose, and have nominated as their plenipotentiaries:

The President of the Republic of Salvador, Dr. Don Jacinto Castellanos, Envoy Extraordinary and Minister Plenipotentiary of Salvador to the Government of Honduras; and

The President of the Republic of Honduras, Don Jeronimo Zelaya, Minister of Foreign Affairs;

Who, after having exchanged their full powers, and found them in due form, have agreed upon the following:

ARTICLE I

The Governments of Salvador and Honduras shall each nominate a lawyer and a surveyor in order that they may determine the boundary line dividing the two republics, in accordance with the protocol of the conferences between General Don Lisandro Letona and Don Francisco Cruz, and the several documents which were then put forward by the two parties.

ARTICLE II

The commissioners shall meet in this city or in San Salvador, within three months from the date on which the present convention shall be approved by the respective governments.

ARTICLE III

If the commissioners should be unable to agree, the differences which may arise between them shall be submitted for the decision of an arbitrator, who shall be the government of any nation in amity

¹ English: *British and Foreign State Papers*, vol. LXXXI, p. 632.

Spanish: Reyes, *Tratados del Salvador*, 1896, p. 452.

Approved by the President of Salvador, October 18, 1886, and ratified by legislative decree April 28, 1887, according to the last source. The English source says the ratifications were exchanged at San Salvador, July 27, 1888.

with the two republics, or the diplomatic body accredited in Central America, from whose decision there shall be no appeal.¹

ARTICLE IV

The boundary line marked out by the commissioners, or by the arbiters as the case may be, shall be considered the genuine and permanent boundary, and both governments shall be obliged to respect it and conform to it without reserve of any kind.

ARTICLE V

Until the completion of the definitive demarcation which is the object of the present convention, the boundary line as agreed upon in 1884, and sanctioned by the *statu quo* agreed to by the governments of the two republics, shall be guarded and respected by the authorities and people of the frontier districts, to the entire exclusion of the line traced by the commissioners, Don Lisandro Letona and Don Francisco Cruz, which was not approved by the Congress of Honduras.

ARTICLE VI

The present convention shall be ratified, and the ratifications exchanged in this city, or at San Salvador, by delegates appointed for that purpose, within three months of the ratification last made, the exchange to be effected by communications between the two ministries.

In faith of which the undersigned ministers have signed it in duplicate, and have affixed their respective seals.

Done at Tegucigalpa, the twenty-eighth of September, one thousand eight hundred and eighty-six.

[Here follow signatures.]

¹ Attention is called to an irreconcilable difference between the Spanish and English texts of the third article. According to the former, in case the commissioners should be unable to agree they were to have the power to name an arbitrator, no national limitation being placed upon them as to their choice. According to the latter, disputes were to be referred to the arbitration of the government of any nation at amity with the two republics, or to the diplomatic corps accredited to Central America.

The arbitral provision proper is contained in this third article with a reference only to it in the fourth; but the arrangement for the settlement by a joint commission partakes of the nature of an arbitration, and is necessary to a full understanding of the fourth article.

No. 107

COSTA RICA—NICARAGUA

*Convention for arbitrating the question of the validity of a boundary treaty of April 15, 1858.—Signed at Guatemala, December 24, 1886*¹

The Governments of the Republics of Nicaragua and Costa Rica desiring to terminate the question pending since 1871, viz., whether the treaty signed by the two on the fifteenth of April, 1858, is or is not valid, have named respectively as plenipotentiaries: Señor Don Antonio Roman, Envoy Extraordinary and Minister Plenipotentiary of Nicaragua to the Government of Guatemala; and Señor Don Asencion Esquivel, Envoy Extraordinary and Minister Plenipotentiary of Costa Rica to the same government; who, after having communicated their full powers, which were found in due form, and conferred through the mediation of the Minister for Foreign Affairs of the Republic of Guatemala, Señor Don Fernando Cruz, designated to interpose the good offices of his government, generously offered to the contending parties, and gratefully accepted by them, have agreed to the following articles:

ARTICLE I

The question pending between the contracting governments in regard to the validity of the treaty of limits of the fifteenth April, one thousand eight hundred and fifty-eight, is submitted to arbitration.

ARTICLE II

The arbitrator of the matter in question shall be the President of the United States of America. Within sixty days following the exchange of ratifications of the present convention the contracting

¹ English: *British and Foreign State Papers*, vol. LXXVII, p. 476.

Spanish: *Tratados de Costa Rica*, vol. II (1893), p. 391.

Ratified by Nicaragua, April 26, 1887; ratified by Costa Rica, May 12, 1887; ratifications exchanged at Managua, June 1, 1887. See Bonilla, *Tratados de Nicaragua*, 1909, p. 510, following the text of the treaty.

A general treaty to settle all questions pending between the two powers was negotiated July 26, 1887, by which the question of the validity of the treaty of 1858 was waived. It was ratified by Costa Rica; but so far as the present writer has learned ratifications were not exchanged. See Spanish source cited, page 425. Its tenth article provided that until it should be ratified and exchanged this arbitration convention of December 24, 1886, should remain in force.

Another boundary treaty, signed December 23, 1890, provided for the fulfilment of the treaty of April 15, 1885, and the arbitral award of the President of the United States of March 22, 1888, under the convention of December 24, 1886. See Bonilla, *op. cit.*, p. 523.

governments will solicit of the appointed arbitrator his acceptance of the charge.

ARTICLE III

In the unexpected event that the President of the United States should not be pleased to accept, the parties shall name as arbitrator the President of the Republic of Chile, whose acceptance shall be solicited by the contracting governments within ninety days from the date upon which the President of the United States may give notice to both governments, or to their representatives in Washington, of his refusal.

ARTICLE IV

If, unfortunately, the President of Chile should be unable to lend his distinguished services, the two governments shall come to an agreement for the purpose of electing two other arbitrators within ninety days, counting from the day upon which the President of Chile may give notice to the two governments, or to their representatives in Santiago, of his refusal.

ARTICLE V

The arbitration shall be conducted in this manner:

Within ninety days of the notification to the parties of the acceptance of the arbitration, they shall present to him their allegations and documents.

The arbitrator shall communicate the counter-allegations to the representative of each government within eight days of their being presented, in order that they may be answered within the thirty days following.

In order that his decision may be valid, the arbitrator shall render it within six months from the expiration of the period agreed upon for the presentation of answers to allegations, whether these shall have been presented or not.

The arbitrator may delegate his duties, provided he does not fail to participate directly in pronouncing the definitive sentence.

ARTICLE VI

If the arbitral award shall declare the treaty valid, the same award shall declare whether Costa Rica has the right to navigate the River San Juan with ships of war or revenue boats. In case the said convention is found valid, the award shall also decide all other points of doubtful interpretation found by either of the parties in the

treaty, and communicated to the other party within thirty days from the exchange of the ratifications of this convention.

ARTICLE VII

Whatever the arbitral decision may be, it shall be held as a treaty complete and obligatory between the contracting parties, without any recourse, and it shall come into force thirty days after it has been communicated to the two governments or to their representative.

ARTICLE VIII

If the treaty is declared invalid the two governments shall, within one year from the announcement of the award, come to an understanding on the demarcation of the boundary line between their respective territories. If such understanding proves impossible they shall conclude within a year thereafter a convention to submit the question of their common boundary to the decision of a friendly government.

From the time the treaty is declared invalid, and so long as there is no agreement between the parties or there is no decision fixing the rights of the two countries, those established by the treaty of the fifteenth April, one thousand eight hundred and fifty-eight, shall be respected.

ARTICLE IX

Pending the decision on the validity of the treaty, the Government of Costa Rica consents to suspend the fulfilment of its agreement of the sixteenth March last relative to the navigation of the River San Juan by a government steamer.

ARTICLE X

In case the Arbitration decides that the treaty of limits is valid, the contracting governments shall, within the ninety days following the notification of this decision, name four commissioners, two each, who shall take the proper measures with reference to the line of demarcation set forth in Article II of the said treaty of the fifteenth April, one thousand eight hundred and fifty-eight.

These measures, and the consequent demarcation shall be effected within thirty months from the date of the naming of the commissioners.

These commissioners shall be allowed to depart from the line laid down in the treaty one mile in order to lay down natural lines or

lines more distinguishable, but this deviation shall only be allowed when all the commissioners are of one accord as to the point or points to be substituted.

ARTICLE XI

This treaty shall be submitted for the approbation of the Executive and Congress in both the contracting republics, and the ratifications shall be exchanged in Managua or in San José de Costa Rica the thirtieth of June next, or earlier if possible.

In witness whereof the plenipotentiaries and the Minister of Foreign Affairs of Guatemala have signed and sealed the same in Guatemala, the twenty-fourth day of December, one thousand eight hundred and eighty-six.

[Here follow signatures.]

No. 108

COSTA RICA—GUATEMALA—HONDURAS—NICARAGUA— SALVADOR

*Provision for general arbitration in a general Central American treaty of peace, commerce, etc.—Signed at Guatemala, February 16, 1887*¹

ARTICLE I

There shall be a perpetual peace and loyal and sincere friendship between the Republics of Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador.

If unfortunately, any difference should arise between two or more of said republics, they shall endeavor to settle it between them in a friendly and fraternal manner; but should that settlement not be attained, they shall adopt necessarily and unavoidably the means of arbitration to put an end to the disagreement.

And in order that the appointment of an arbiter may never be an obstacle for the fulfilment of the pact, it is stipulated that if four months after the publication by one of the contending governments in its official journal of the note demanding from the other or others

¹ Spanish: *Tratados Internacionales de Costa Rica*, vol. II (1893), p. 57.

Ratified by Costa Rica, May 27, 1887; the dates of ratification by other powers and the date of exchange are not at hand, but Wiesse, *Tratados de Arbitramiento*, p. 82, says it was not ratified by Salvador, but that it was in force between the rest until its amendment by the subsequent treaty of November 24, 1888, which is not printed in this collection since no positive evidence has been found that it was ever ratified by any of the contracting parties.

the election of the arbiter, they should not come to an agreement as to the designation of the government or the person who is to act as arbiter, three of the governments of the following list of nations shall be drawn by lot:

Germany, Argentine Republic, Belgium, Chile, Spain, United States of America, France, Great Britain, Mexico, and Switzerland.

The first of the governments drawn shall be the arbiter. Should such government not accept, it shall be substituted by the second and if the second should not desire to discharge that office, the third of the governments so drawn shall act as arbiter. The drawing shall be made before the representatives of the parties to the dispute by delegates of the other Central American governments to whom any of the contending parties may apply for that purpose.

ARTICLE II

In case of disagreement between two or more of the contracting republics that should endanger the continuation of their good relations, it is the duty of those governments that have not taken direct part in the dispute to interpose their good offices jointly or severally between the contending parties so that if possible, the principle of arbitration which is obligatory to all the parties to this convention may be respected.

But if an actual break should in fact occur between two or more of the contracting republics, the others bind themselves to keep within the most strict neutrality without refraining from interposing their good offices in order to terminate as soon as possible the hostilities already begun.

No. 109

ECUADOR—PERU

*Convention for submitting to arbitration the question of the boundary between the two countries.—Signed at Quito, August 1, 1887*¹

The Governments of Ecuador and Peru, wishing to settle amicably the question of limits pending between the two nations, have authorized the undersigned to come to an agreement for this purpose, and they, after exhibition of their full powers, have agreed to the following articles:

¹ English: *British and Foreign State Papers*, vol. LXXVIII, p. 47.

Spanish: Aranda, *Tratados del Perú*, vol. v, p. 803.

Ratified by Peru, September 28, 1887; ratifications exchanged at Lima, April 14, 1888.

ARTICLE I

The Governments of Ecuador and Peru submit the said questions to His Majesty the King of Spain, in order that he may settle them, as rightful arbitrator in a definitive way and without appeal.

ARTICLE II

Both governments, through the medium of plenipotentiaries, will solicit simultaneously the acquiescence of His Catholic Majesty to this appointment within eight months, counted from the exchange of the ratifications of the present convention.

ARTICLE III

A year after acceptance by the august arbitrator, the plenipotentiaries will present to His Catholic Majesty, or to the minister whom His Majesty may designate, a statement in which are set forth the pretensions of their respective governments, accompanied by documents in support of them, and on which they will base the justice of their case.

ARTICLE IV

From the day of presentation of said statements or declarations, the plenipotentiaries will be authorized to receive and reply to, within a stated limit of time, the communications which the august arbitrator may deem it necessary to address to them, as also in order to carry out the measures which he may dictate for the purpose of making clear the rights of the parties.

ARTICLE V

As soon as the arbitral decision shall have been pronounced and published officially by His Majesty's Government, it will be considered final, and its decisions will be obligatory for both parties.

ARTICLE VI

Previous to the issue of the arbitral decision, and as soon as possible after the exchange both parties will, by means of direct negotiations, do their utmost to settle all or some of the points comprised in the question of limits, and if such arrangements are made, and are completed in accordance with the forms necessary for the validity of public treaties, they shall be brought to the knowledge of His Catholic Majesty, and the arbitration shall be considered as terminated, or limited to the points not agreed upon, as the case may be.

In default of direct agreement, the arbitration will be carried out in its whole extent as laid down in Article I.

ARTICLE VII

Although both contracting parties entertain the fullest conviction that His Catholic Majesty will accept the proposed arbitration, they designate as arbitrators, should the contrary be the case, His Excellency the President of the French Republic, or His Majesty the King of the Belgians, or the Swiss Federal Council, in the order in which they are named, in order that they may perform the service in conformity with the stipulations of the preceding articles.

ARTICLE VIII

After the approval of the present convention by the Congress of Ecuador and that of Peru, the ratifications shall be exchanged at Quito or at Lima as soon as possible.

In faith of which the undersigned plenipotentiaries have signed and sealed it at Quito, on the first of August, one thousand eight hundred and eighty-seven.

[Here follow signatures.]

No. 110

GUATEMALA—MEXICO

*Convention for the arbitration of the claims of citizens of each against the government of the other, in case a mixed commission provided for therein should not agree.—Signed at the city of Mexico, January 26, 1888*¹

In view of the fact that citizens of the Republic of Guatemala have presented complaints and made claims for injuries suffered in their persons and property, for which the authorities of the Republic of

¹ English: *British and Foreign State Papers*, vol. LXXXI, p. 255, and also p. 259 for amendments which are here included.

Spanish: *Tratados Concluidos y Ratificados por la República Mexicana*, 1896, p. 278. Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)* vol. I (1892), p. 342, contains a Spanish text but without amendments agreed to February 15, 1889. See also, *Pasicrisie internationale*, p. 325, for Article II.

Ratifications exchanged at Mexico, February 1, 1890.

See additional convention signed December 22, 1891, No. 122, *post*, p. 194.

Attention is called to the fact that the Spanish and English texts of Article II do not exactly agree. The clause in the English text appearing here in parentheses after the date 1873, has no counterpart in the Spanish text. And in the English text there is no counterpart of the last sentence of the Spanish text of the article, a translation of which is appended here in parentheses.

Mexico are considered responsible, and that like complaints and claims have been presented for injuries to the persons and property of Mexican citizens, for which the Guatemalan authorities are considered responsible, the President of the Republic of Guatemala and the President of the Republic of Mexico have decided to conclude a convention for the settlement of the said claims, and have named as their plenipotentiaries:

The President of the Republic of Guatemala, Señor Don José Salazar, Envoy Extraordinary and Minister Plenipotentiary to the Republic of Mexico; and

The President of the Republic of Mexico, Señor Don Ignacio Mariscal, Secretary of State for Foreign Affairs;

Who, after having communicated to each other their respective full powers, and having found the same in good and due form, have agreed to the following articles:

ARTICLE I

All claims pending of corporations, companies, or private persons of Guatemalan nationality for injuries suffered in their persons and property, as hereafter specified for which the Mexican authorities are considered responsible, and all claims pending of corporations, companies, or private persons of Mexican nationality for injuries suffered in their persons and property, as also hereinafter specified, for which the Guatemalan authorities are considered responsible, as also all claims of this class which may be presented within the term fixed by this agreement further on, shall be submitted to two commissioners, one of whom shall be appointed by the President of the Republic of Guatemala and the other by the President of the Republic of Mexico. In case of death, absence, or hindrance of either of the commissioners, or in case one of them ceases to exercise his functions, the President of the Republic of Guatemala or the President of the Republic of Mexico, whichever it may concern, shall at once appoint another person to act as commissioner in the place of the person originally appointed.

ARTICLE II

It is established that, in accordance with this convention, those claims shall not be admitted which are based on occurrences previous to the year 1873 (nor those which, considered as civil suits between private persons, have been determined in accordance with the legislation of the country to which the claimant belongs).¹

¹ See footnote 1, *ante*, p. 172.

When the claim is based on acts previous to the year 1873, or on damages and prejudices before the definite settlement of the boundaries of both republics, provided it be impossible to decide as to the legality of the acts without determining to which of the two nations the territory belonged, the commissioners shall declare that they are incompetent, and shall forward them to their respective governments, in order that they may be decided on, at the request of the interested parties, by the usual authorities in accordance with the law, without recourse to diplomatic intervention, except in case of denial of justice. (The joint commission shall, in a proper case, pass upon the legal exceptions taken, including prescription, and its decision shall be in accordance with the general principles of law.¹)

ARTICLE III

When the complaint of a claimant presumes his right of property in real estate, this right shall be proved before the commissioners in accordance with the laws of the country where the said property is situated, the said laws having been in force at the time the acts were committed which form the basis of the claim.

ARTICLE IV

The commissioners appointed shall meet in the city of Mexico within six months counting from the exchange of the ratifications of this agreement, and before entering on their duties they shall make and sign a solemn declaration that they will carefully examine and decide according to their best judgment, and in accordance with public right, justice, and equity, and without fear, favor, or leaning towards their respective country, on all those claims which may be respectively laid before them by the Governments of the Republics of Guatemala and Mexico; and the said declaration shall be annexed to the record of their proceedings.

The commissioners shall then name a third person to act as arbitrator in the case or cases in which they may differ in opinion. Should they not agree on the nomination of this third person, the Guatemalan Minister in Mexico and the Minister for Foreign Affairs of the Mexican Republic shall make that nomination. The person thus elected to act as arbitrator shall, before proceeding to act as such, make and sign a solemn declaration in a similar form to that which

¹ Translated from the Spanish text as given in *Pasicrisie internationale*, p. 325. See footnote 1, *ante*, p. 172.

should have already been made and signed by the commissioners, and the same shall also be annexed to the record of their proceedings. In case of death, absence, or hindrance of such person, or in case, for any reason, he should cease to act as arbitrator, another person shall be named in his place in the manner previously set forth, and he shall make and sign the said declaration.

ARTICLE V

After signing the respective declarations, the commissioners shall proceed jointly to examine and decide the claims laid before them in the order and manner which they may both judge convenient, but they shall only accept that information and those proofs furnished them by their respective governments, or in their names.

It shall be obligatory on them to receive and read all manifestations or written documents presented to them by their respective governments, or in their name, in support of, or in answer to, any claim, and to hear, if it be necessary, in each separate claim, one person on the part of each of the two governments. Should they not be of the same opinion with regard to any particular claim, they shall call in the aid of the arbitrator who shall have been named by common consent, and the arbitrator, after examination of the proofs produced in favor of and against the claim, and after having heard, if it should be necessary, one person for each party, as before stated, and having consulted with the commissioners, shall give his award, definitively and without appeal.

ARTICLE VI

The decision of the commissioners and the arbitrator shall be given in writing in each case of a claim; it shall state that the amount conceded shall be paid in Mexican money, and it shall be signed by them.

ARTICLE VII

Each government may appoint a person who, acting in its name, may produce and support claims, answer those made against it, and generally represent it in all matters appertaining to the examination and decision of the same.

ARTICLE VIII

The President of the Republic of Guatemala and the President of the Republic of Mexico solemnly and sincerely agree to consider as definite and final in every point the decision given by common consent

by the commissioners or by the arbitrator on each claim, and to carry out such decisions without objection, excuse, or delay.

ARTICLE IX

All claims shall be laid before the commissioners within four months, counted from the date of their first meeting, with the exception of any case in which the causes of the delay that may have occurred should be satisfactory in the opinion of the commissioners, or of the arbitrator, should the commissioners not agree, and then the time may be extended for the production of the claim to a term not exceeding three months.

The commissioners shall be under obligation to examine and decide all the claims within one year from the date of their first meeting.

In conformity with the object and principle of this convention, the commissioners, or, should they not agree, the arbitrator, may decide in each case whether the claim has or has not been duly made and produced, either in its whole or in part.

ARTICLE X

After the commissioners and arbitrator have decided in all the cases submitted to their judgment, the total of the amounts conceded to the citizens of the one party shall be deducted from the total of the amounts conceded to the citizens of the other party, and the difference, to the amount of 60,000 dollars Mexican money, without charges or other reduction than that specified in Article XIII of this convention, shall be paid in the city of Guatemala or in that of Mexico, within twelve months counted from the termination of the work of the commission, to the government to whose citizens the greater amount of concessions may be awarded. The remainder of the said difference shall be paid in annual securities not exceeding 60,000 dollars Mexican money each, until the total of such difference is paid.

ARTICLE XI

The high contracting parties agree to consider the result of the work of this commission as a definite arrangement, complete and final with regard to all the claims against the two governments accrued through acts committed previously to the exchange of the ratifications of the present convention, and they consequently agree to consider and to treat as finally arranged, excluded, and inad-

missible, from the date of the conclusion of the work of the commission, any of those claims, even should it not have been laid before the said commission.

ARTICLE XII

The commissioners and the arbitrator shall keep a scrupulously correct register, with exact entries of their proceedings, with the dates. For this object they shall appoint two secretaries to help them in carrying out the business of the commission.

ARTICLE XIII

Each government shall pay to its commissioner an annual salary not exceeding 3,000 dollars Mexican money, and each of the two governments shall pay the amount which by common consent shall be fixed.

The remuneration to be paid to the arbitrator shall be decided by common consent at the conclusion of the work of the commissioners, but in virtue of a recommendation by the commissioners, each government may make such advances on account of such remuneration as may be necessary or equitable.

The annual salary of the secretaries shall not exceed 2,000 dollars Mexican money.

The total amount of the expenses of the commission, including those unforeseen, shall be paid by proportionate deduction from the amounts the commission may concede in indemnities to the claimants, provided such deduction does not exceed five per cent of the amounts fixed for such indemnities.

In case the expenses should amount to more than this five per cent, each government shall pay the half of the excess.

ARTICLE XIV

The present convention shall be ratified in accordance with the laws in force in each of the two republics; and the exchange of the ratifications shall be effected in the city of Mexico as soon as possible.

In testimony whereof the respective plenipotentiaries affix thereto their seals and signatures.

Done in Mexico, in duplicate, the twenty-sixth day of January, one thousand eight hundred and eighty-eight.

[Here follow signatures.]

No. 111

HAITI—UNITED STATES

*Agreement for the arbitration of a claim of a citizen of the latter against the government of the former. — Signed at Washington, May 24, 1888.*¹

The United States of America and the Republic of Haiti, being mutually desirous of maintaining the good relations that have so long subsisted between them and of removing, for that purpose, all causes of difference, their respective representatives, that is to say: Thomas F. Bayard, Secretary of State of the United States, and Stephen Preston, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Haiti, have agreed upon and signed the following protocol:

1. It having been claimed on the part of the United States that the imprisonment of Charles Adrien van Bokkelen, a citizen of the United States, in Haiti, was in derogation of the rights to which he was entitled as a citizen of the United States under the treaties between the United States and Haiti, which the government of the latter country denies, it is agreed that the questions raised in the correspondence between the two governments in regard to the imprisonment of the said van Bokkelen shall be referred to the decision of a person to be agreed upon by the Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of Haiti.

2. The referee so chosen shall decide the case upon such papers as may be presented to him by the Secretary of State of the United States and the Minister of Haiti respectively, within two months after the date of his appointment; but he shall not take into consideration any question not raised in the correspondence between the two governments prior to the date of the signature of this protocol.

3. Each government shall submit with the papers presented by it a brief of argument, and should the referee so desire, he may require further argument, oral or written, to be made within five months from the date of his appointment. He shall render his decision within six months from said date.

4. A reasonable fee to the referee shall be paid by the Government of Haiti.

¹ English and French: *United States Treaty Series*.

The document made no provision for its ratification or for the exchange of ratifications. For the execution of the agreement, see La Fontaine, *Pasicrisie internationale*, pp. 302-22; and *Foreign Relations of the United States*, 1888, pp. 1007-36.

5. Any award made shall be final and conclusive and, if in favor of the claimant, shall be paid by the Government of Haiti within twelve (12) months of the date of such award.

Done in duplicate, at Washington this twenty-fourth day of May, one thousand eight hundred and eighty-eight.

[Here follow signatures.]

No. 112

ECUADOR—MEXICO

*Provision for general arbitration in a treaty of friendship, commerce, and navigation.—Signed in Washington, July 10, 1888*¹

ARTICLE X

The contracting parties, vitally concerned in avoiding even the possibility of a conflict between themselves, agree to take under advisement and negotiate a treaty which shall have for object the establishment of bases for submitting to the arbitration, either of commissioners appointed by the two countries, or of one or more friendly nations, any disputes which may unfortunately arise in future between the two republics, whether on some point in disagreement as to any of the stipulations of this treaty, or on any other referring to their political or commercial relations.

No. 113

ARGENTINA—CHILE

*Provision for arbitration in a convention respecting the demarcation of boundaries.—Signed at Santiago, August 20, 1888*²

ARTICLE VI

Whenever the experts are unable to come to an agreement on any point in the fixing of the boundary, or on any other matter, they shall

¹ English: *British and Foreign State Papers*, vol. LXXIX, p. 147.

Spanish: *Tratados y Convenios Concluidos y Ratificados por México*, 1896, p. 358.

Ratifications exchanged, November 26, 1890.

² English: *British and Foreign State Papers*, vol. LXXXII, p. 685.

Spanish: *Tratados de Argentina*, vol. VII, p. 145.

Ratifications exchanged at Santiago, January 11, 1890.

This is one of a chain of important treaties containing provisions for the arbitration of disputes concerning the boundary. See *ante*, Nos. 24 and 82, pp. 33 and 122, and footnote to the latter; and *post*, Nos. 144 and 149, pp. 246 and 256. The remaining articles of this convention of August 20, 1888, agree upon the time of appointment, the places of meeting, and the method of procedure of the boundary experts provided for in the treaty of July 23, 1881, No. 82, *ante*, p. 122.

communicate it to their respective governments, in order that the latter may proceed to the selection of the third expert, who shall decide the disagreement, in accordance with the boundary treaty of 1881.

No. 114

COSTA RICA—NICARAGUA

*Convention for arbitrating a dispute over the proposed construction of an interoceanic canal.—Signed at San José, January 10, 1889*¹

The Governments of Costa Rica and Nicaragua, for the purpose of terminating in a friendly manner the question which has recently arisen in connection with the contract between the Costa Rican Government and the *Asociación del Canal de Nicaragua*, for the excavation of the interoceanic canal, have named as their respective plenipotentiaries, to wit:

The Government of Costa Rica, His Excellency Don Manuel J. Jiménez, Secretary of Foreign Affairs; and the Government of Nicaragua, His Excellency General Don Isidro Urtecho, Envoy Extraordinary to Costa Rica and Minister Plenipotentiary to the Central American Congress;

Who, after having exchanged their full powers and conferred with each other, found themselves in serious disagreement and took advantage of the mediation opportunely proffered by the Republics of Guatemala, Honduras and Salvador, which were respectively represented by their envoys extraordinary and ministers plenipotentiary to the Costa Rican Government and ministers plenipotentiary to the Central American Congress, their Excellencies Attorney Don José Farfán H., Attorney Don Jerónimo Zelaya, Minister of Foreign Affairs of Honduras, and Dr. Don Francisco E. Galindo, Envoy Extraordinary and Minister Plenipotentiary to the Government of Nicaragua.

And, having continued the conferences with the assistance of the mediators whose credentials were also recognized, the plenipotentiaries of Costa Rica and Nicaragua have agreed upon the following:

¹ Spanish: *Tratados de Costa Rica*, vol. II (1893), p. 114.

Ratified by Costa Rica, April 24, 1889; ratified by the Nicaraguan Chamber of Deputies, February 6, and Senate, April 3, and proclaimed by the executive, April 4. It seems never to have been executed. Probably the ratifications were not exchanged.

ARTICLE I

The question raised by the Government of Nicaragua against that of Costa Rica because of the fact that the latter has concluded with the *Asociación del Canal de Nicaragua* the contract entitled Zeledón-Menocal bearing date of July 31 of the year just passed, is hereby submitted to the arbitral decision of His Excellency the President of the United States of America.

ARTICLE II

The arbitrator shall decide:

Whether Costa Rica, in conformity with the boundary treaty concluded with Nicaragua on April 15, 1858, and the decision rendered by His Excellency the President of the United States of America on March 22 of the year just passed, which declares that treaty in force and elucidates it, had the right to conclude the Zeledón-Menocal contract.

In case it is decided that Costa Rica had the right to conclude the contract referred to, the arbitrator shall decide:

Whether the Government of Costa Rica, by the contract with the *Asociación del Canal de Nicaragua* or by any article or articles of the said Zeledón-Menocal contract exceeded the rights recognized by the boundary treaty and the decision above referred to as belonging to the Republic of Costa Rica to the prejudice of the rights of Nicaragua.

The arbitrator shall specify the article or articles in which Costa Rica may have exceeded its rights to the prejudice of those of Nicaragua, and indicate in each case the manner in which such rights may have been exceeded.

ARTICLE III

The Zeledón-Menocal contract above referred to shall be considered void if the decision denies absolutely that Costa Rica had the right to conclude the contract.

The articles of the contract in regard to which the decision may declare that Costa Rica exceeded its rights to the prejudice of Nicaragua shall be considered void.

The declarations which the arbitrator may make against the validity of the contract or against the validity of one or several of its articles, shall establish a precedent between Costa Rica and Nicaragua.

On the other hand, the declaration of the validity of the contract,

and the articles which may not be impugned by the arbitrator, shall likewise establish a precedent between Costa Rica and Nicaragua in case the contract should not be carried out.

ARTICLE IV

Within thirty days following the exchange of ratifications of the present convention, the contracting governments shall solicit the acceptance of the arbitrator.

ARTICLE V

If the arbitrator selected should not be able to accept the appointment, the two governments shall by mutual agreement proceed to the appointment of another arbitrator within ninety days reckoned from the date on which His Excellency the President of the United States of America may notify his inability to both governments or to their representatives at Washington.

ARTICLE VI

The procedure to which the arbitral decision must conform and the time within which it must be rendered shall be as follows:

(a) Within thirty days following the date on which the acceptance of the arbitrator may have been notified to the parties, the latter shall present to him their arguments and documents in Spanish, it being permissible to add thereto the corresponding translation of the same in English.

(b) The arbitrator shall communicate to the representative of each government the argument of the other party within eight days following the communication.

(c) Each government shall have the right to make answer to the argument of the other party within ninety days following the date on which the respective argument may be communicated to it, and, together with the answers, documents may also be presented.

(d) To be valid the arbitral decision must be rendered within one hundred and twenty days following the expiration of the time appointed for presenting arguments, whether the latter have been presented or not.

ARTICLE VII

The arbitral decision, whatever it may be, shall be considered as an absolute, obligatory and perpetual contract between the high contracting parties and in no way subject to appeal.

ARTICLE VIII

This convention shall be submitted in Costa Rica and Nicaragua for ratification according to constitutional requirements, and the exchange of ratifications shall take place in the city of San José de Costa Rica or that of Managua, on or before April 30 of the current year.

In faith of which they have signed this convention in duplicate and affixed their respective seals thereto, the convention being likewise signed and sealed by their excellencies the envoys extraordinary and ministers plenipotentiary of the mediatory republics.

Done in the city of San José de Costa Rica on the tenth day of January of the year one thousand eight hundred and eighty-nine, the sixty-eighth year of the independence of Central America.

[Here follow signatures.]

No. 115

HONDURAS—NICARAGUA

*Provision for arbitration in a boundary convention.—Signed at Managua, January 24, 1889*¹

ARTICLE I

It is agreed that in case of inability to make the demarcation of the boundaries between the Republics of Nicaragua and Honduras, through the Commissioners appointed for this purpose, in the manner in which the demarcation of the dividing line of the Department of Nueva Segovia and Choluteca was made, according to the agreement of February 11, 1888, all boundary questions between the two republics shall be submitted to the decision of an arbiter.

ARTICLE IV

His Excellency the President of the Republic of Salvador shall be the arbiter to determine the limits between the two contracting republics.

¹ Spanish: *Tratados de Arbitraje de Nicaragua*, 1914, p. 114.

Ratified by Nicaragua April 6, 1889, according to the *Report for 1889-1890 of the Minister of Foreign Affairs of Nicaragua*, p. 75. No statement is at hand of the date of ratification by Honduras or that ratifications were ever exchanged; but in the introduction to the report just mentioned a statement is made that Honduras had ratified it, and there seems to be an implication that preparations were being made to execute it.

ARTICLE VII

The arbitral award, whatever it may be, shall be considered as a perfect, obligatory and perpetual treaty between the high contracting parties. There shall be no recourse against it.

No. 116

MEXICO—UNITED STATES

*Convention for the settlement of boundary disputes by a commission, with a provision for ultimate arbitration.—Signed at Washington, March 1, 1889*¹

The United States of America and the United States of Mexico, desiring to facilitate the carrying out of the principles contained in the treaty of November 12, 1884, and to avoid the difficulties occasioned by reason of the changes which take place in the bed of the Rio Grande and that of the Colorado River, in that portion thereof where they serve as a boundary between the two republics, have resolved to conclude a treaty for the attainment of these objects, and have appointed as their respective plenipotentiaries:

The President of the United States of America, Thomas F. Bayard, Secretary of State of the United States of America; and

The President of the United States of Mexico, Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico, at Washington;

Who, after having exhibited their respective full powers, and having found the same to be in good and due form, have agreed upon the following articles:

¹ English: *United States Statutes at Large*, vol. 26, p. 1512.

Spanish: *Tratados Concluidos y Ratificados de México* (1896), p. 106.

Ratified by Mexico, October 31, 1889; ratified by the United States, December 6, 1890; ratifications exchanged, December 24, 1890.

For supplementary convention extending this indefinitely, see No. 159, *post*, p. 295.

This convention, originally for five years only, was successively extended by special conventions dated October 1, 1895, November 6, 1896, October 29, 1897, December 2, 1898, December 22, 1899, and finally made permanent by that of November 21, 1900, No. 159, *post*, p. 295.

Strictly speaking this convention does not in itself provide for arbitration but for the settlement by an international commission, the procedure of which was virtually an arbitration. In case of irreconcilable disagreement between the commissioners Article VIII provides that the two governments shall settle it amicably, "bearing constantly in mind the stipulation of Article XXI of the treaty of Guadalupe Hidalgo of February 2, 1848," which, it will be recalled, is a qualified arbitral agreement. See No. 18, *ante*, p. 28.

The limitation to five years is not in the treaty as printed in the Spanish source cited; but the proclamation by the Mexican Government says the provision was added by the United States Senate and should be considered a part of the treaty.

ARTICLE I

All differences or questions that may arise on that portion of the frontier between the United States of America and the United States of Mexico where the Rio Grande and the Colorado rivers form the boundary line, whether such differences or questions grow out of alterations or changes in the bed of the aforesaid Rio Grande and that of the aforesaid Colorado River, or of works that may be constructed in said rivers, or of any other cause affecting the boundary line, shall be submitted for examination and decision to an International Boundary Commission, which shall have exclusive jurisdiction in the case of said differences or questions.

ARTICLE II

The International Boundary Commission shall be composed of a commissioner appointed by the President of the United States of America, and of another appointed by the President of the United States of Mexico, in accordance with the constitutional provisions of each country, of a consulting engineer, appointed in the same manner by each government, and of such secretaries and interpreters as either government may see fit to add to its commission. Each government separately shall fix the salaries and emoluments of the members of its commission.

ARTICLE III

The International Boundary Commission shall not transact any business unless both commissioners are present. It shall sit on the frontier of the two contracting countries, and shall establish itself at such places as it may determine upon; it shall, however, repair to places at which any of the difficulties or questions mentioned in this convention may arise, as soon as it shall have been duly notified thereof.

ARTICLE IV

When, owing to natural causes, any change shall take place in the bed of the Rio Grande or in that of the Colorado River, in that portion thereof wherein those rivers form the boundary line between the two countries, which may affect the boundary line, notice of that fact shall be given by the proper local authorities on both sides to their respective commissioners of the International Boundary Commission, on receiving which notice it shall be the duty of the said Commission to repair to the place where the change has taken

place or the question has arisen, to make a personal examination of such change, to compare it with the bed of the river as it was before the change took place, as shown by the surveys, and to decide whether it has occurred through avulsion or erosion, for the effects of Articles I and II of the convention of November 12, 1884; having done this, it shall make suitable annotations on the surveys of the boundary line.

ARTICLE V

Whenever the local authorities on any point of the frontier between the United States of America and the United States of Mexico, in that portion in which the Rio Grande and the Colorado River form the boundary between the two countries, shall think that works are being constructed, in either of those rivers, such as are prohibited by Article III of the convention of November 12, 1884, or by Article VII of the treaty of Guadalupe Hidalgo of February 2, 1848, they shall so notify their respective commissioners, in order that the latter may at once submit the matter to the International Boundary Commission, and that said Commission may proceed, in accordance with the provisions of the foregoing article, to examine the case, and that it may decide whether the work is among the number of those which are permitted, or of those which are prohibited by the stipulations of those treaties.

The Commission may provisionally suspend the construction of the works in question pending the investigation of the matter, and if it shall fail to agree on this point, the works shall be suspended, at the instance of one of the two governments.

ARTICLE VI

In either of these cases, the Commission shall make a personal examination of the matter which occasions the change, the question or the complaint, and shall give its decision in regard to the same, in doing which it shall comply with the requirements established by a body of regulations to be prepared by the said Commission and approved by both governments.

ARTICLE VII

The International Boundary Commission shall have power to call for papers and information, and it shall be the duty of the authorities of each of the two countries to send it any papers that

it may call for, relating to any boundary question in which it may have jurisdiction in pursuance of this convention.

The said Commission shall have power to summon any witnesses whose testimony it may think proper to take, and it shall be the duty of all persons thus summoned to appear before the same and to give their testimony, which shall be taken in accordance with such by-laws and regulations as may be adopted by the Commission and approved by both governments. In case of the refusal of a witness to appear, he shall be compelled to do so, and to this end the Commission may make use of the same means that are used by the courts of the respective countries to compel the attendance of witnesses, in conformity with their respective laws.

ARTICLE VIII

If both commissioners shall agree to a decision, their judgment shall be considered binding upon both governments, unless one of them shall disapprove it within one month reckoned from the day on which it shall have been pronounced. In the latter case, both governments shall take cognizance of the matter, and shall decide it amicably, bearing constantly in mind the stipulation of Article XXI of the treaty of Guadalupe Hidalgo of February 2, 1848.

The same shall be the case when the commissioners shall fail to agree concerning the point which occasions the question, the complaint or the change, in which case each commissioner shall prepare a report, in writing, which he shall lay before his government.

ARTICLE IX

This convention shall be ratified by both parties, in accordance with the provisions of their respective constitutions, and the ratifications thereof shall be exchanged at Washington as speedily as possible—and shall be in force from the date of the exchange of ratification for a period of five years.

In testimony whereof the undersigned plenipotentiaries have signed and sealed it.

Done in duplicate, in the city of Washington, in the English and Spanish languages, on the first day of March one thousand eight hundred and eighty-nine.

[Here follow signatures.]

No. 117

ARGENTINA—BOLIVIA

*Provision for general arbitration in a boundary treaty.—Signed at Buenos Aires, May 10, 1889*¹

ARTICLE III

The Governments of the Republics of Argentina and Bolivia shall exercise full and perpetual dominion over the territories which belong to them respectively by virtue of the present treaty. Any question arising between the two countries, whether by reason of this concession or due to any other cause whatsoever, shall be submitted to the decision of a friendly power, the boundaries stipulated in the present arrangement being in all cases unchangeable.

No. 118

ARGENTINA—BRAZIL

*Treaty for the arbitration of the boundary dispute between the two powers.—Signed at Buenos Aires, September 7, 1889*²

His Majesty the Emperor of Brazil and His Excellency the President of the Argentine Republic, desiring to settle in as short a time as possible the boundary dispute pending between the two states, have agreed, without prejudice to the treaty of September 28, 1885, to put a time limit to the discussion of the rights involved, and in case of non-agreement, to submit the same question to the arbitration of a friendly government, and a treaty to that effect being necessary, they have named their plenipotentiaries, to wit:

His Majesty the Emperor of Brazil, Baron de Alencar, of his Privy Council, and his Envoy Extraordinary and Minister Plenipotentiary to the Argentine Republic;

His Excellency the President of the Argentine Republic, Dr. D.

¹ Spanish: *Tratados de Argentina* (1911), vol. II, p. 152.

Ratified by Bolivia September 11, 1889; ratified by Argentina March 10, 1893; ratifications exchanged at Buenos Aires, March 10, 1893.

² Portuguese: *Relatorio do Ministerio das Relações Exteriores* (1891), p. 40.

Spanish: *Tratados de Argentina*, vol. II, p. 637.

Ratified by Argentina, October 24, 1889 (*Tratados de Argentina*, vol. II, p. 640); ratified by Brazil, November 2, 1889 (*Actos Diplomáticos do Brasil*, vol. II, p. 156); ratifications exchanged at Rio de Janeiro, November 4, 1889.

Norberto Quirno Costa, his Minister Secretary of the Department of the Interior and of Foreign Affairs,

Who, after having exchanged their respective full powers, which were found in good and due form, have agreed upon the following articles:

ARTICLE I

The discussion of the right which each of the high contracting parties claims to the territory in dispute between them shall be closed within the period of ninety days, reckoned from the time when the determination of the locality where diverge the head-waters of the rivers Chapéco, also called Pequiri-Guazú, and Jangada, or San Antonio-Guazú, shall be concluded. It is understood that the said determination shall be regarded as concluded on the day when the commissioners, appointed in virtue of the treaty of September 28, 1885, shall present to their governments the memoirs and maps referred to in the fourth article of the same treaty.

ARTICLE II

If at the expiration of the period fixed by the preceding article a friendly solution has not been reached, the question shall then be submitted to the arbitration of the President of the United States of America, to whom, within sixty days following, the high contracting parties shall address themselves, requesting him to accept this office.

ARTICLE III

If the President of the United States of America should decline the request, then the high contracting parties shall select another arbitrator, in Europe or in America, within sixty days following upon the receipt of the refusal, and in the case of another refusal, they shall continue to proceed in the same manner.

ARTICLE IV

Upon the acceptance of the appointment, within a period of twelve months beginning on the day on which the said acceptance is received, each of the high contracting parties shall present its case to the arbitrator with the documents and evidence deemed proper for the support of its claim. The case having been presented, no further documents may be received, except by request of the arbitrator, who shall have the privilege to demand that any necessary explanations be furnished him.

ARTICLE V

The boundary shall be formed by the rivers designated by Brazil or by the Argentine Republic, and the arbitrator shall be invited to decide in favor of one of the parties, as he may judge to be right, according to the arguments and documents that they may have presented to him.

ARTICLE VI

The award shall be rendered within the period of twelve months, beginning from the date on which the cases are presented, or from the later date, if the cases are not presented by both parties at the same time. It shall be final and obligatory, and no reason whatever may be adduced in order to interfere with its execution.

ARTICLE VII

The present treaty shall be ratified, and the ratifications thereof exchanged in the city of Rio de Janeiro with the least possible delay.

In faith of which the plenipotentiaries of the Empire of Brazil and of the Argentine Republic have signed the said treaty, and affixed their seals thereto, in the city of Buenos Aires, on the seventh day of September, 1889.

[Here follow signatures.]

No. 119

ECUADOR—SALVADOR

*Provision for general arbitration in a treaty of friendship, commerce, and navigation.—Signed at Washington, March 29, 1890*¹

ARTICLE I

All questions, whatever may be their nature, which may, in spite of the efforts which their respective governments shall constantly make to avoid them, arise between Ecuador and Salvador, and which can not be settled in a friendly manner, shall be referred to arbitration.

Consequently in no case, and on no ground whatever, can war be declared between the two nations.

¹ English: *British and Foreign State Papers*, vol. LXXXII, p. 686.

Spanish: *Pactos Internacionales de El Salvador*, vol. I, p. 175.

Ratifications exchanged at San Salvador, May 15, 1891.

ARTICLE II

The selection of the arbitrator, should the necessity arise, shall be made under a special convention, in which the matter in dispute and the method to be observed by the tribunal of arbitration shall also be clearly set forth.

No. 120

COSTA RICA—ECUADOR

*Provision for general arbitration in a treaty of friendship, commerce, and navigation.—Signed at Washington, April 19, 1890*¹

ARTICLE I

All questions of any nature which, notwithstanding the zeal of the respective governments to avoid them, may arise between Ecuador and Costa Rica, and which can not be settled amicably, shall be submitted to arbitration.

Consequently, in no case and for no reason may war be declared between the two nations.

ARTICLE II

The designation of the arbitrator, should the case arise, shall be made by a special convention wherein shall also be clearly established the matter in litigation, and the procedure to be followed in the arbitration.

ARTICLE IX

The same contracting parties, prompted by a desire to avoid whatever might tend to disturb their friendly relations, agree that their diplomatic representatives shall not intervene officially, except to obtain, should there be any reason therefor, a friendly settlement in regard to the claims or complaints of private individuals regarding matters which belong to the jurisdiction of the civil or criminal branch of the courts of the country having jurisdiction thereof; unless it should be a case where justice has been denied, or in case the execution of a final judgment should fail to be carried out, or in cases where, in spite of having exhausted all legal resources, there should be flagrant violation of the present treaty, or of the rules

¹ Spanish: *Tratados de Costa Rica*, vol. II (1893), pp. 406, 408.

Ratified by Ecuador, August 26, 1890; approved by the Congress of Costa Rica, July 31, 1891, and proclaimed by the Costa Rican executive, August 6, 1891. No statement is at hand concerning the exchange of ratifications.

of public or private international law as generally recognized by civilized nations.

In any of these cases, if unable to arrive at a satisfactory arrangement, they shall proceed in accordance with the provisions of Article I.

No. 121

GUATEMALA—SALVADOR

*Provision for general arbitration in a treaty of peace and friendship.—
Signed at Guatemala, November 15, 1890*¹

ARTICLE V

In order to avert war in future between Guatemala and Salvador, the two governments henceforward adopt the humanitarian and civilized method of settling by arbitration every question or difference which may arise between them, in case they are not able to reach a satisfactory agreement by means of frank discussion.

ARTICLE VI

The arbitrator shall be appointed by means of a special convention, which shall state the question and the procedure to be followed in the arbitration.

ARTICLE VII

In order that the appointment of the arbitrator may never be an obstacle to the execution of the convention, it is stipulated that, if an agreement is not reached upon the selection of the government or of the person to act as arbitrator, within four months from the date of publication by either of the contracting governments in its official journal of the note in which it requests the other to make choice of an arbitrator, three of the following governments shall be drawn by lot: Germany, Argentine Republic, Belgium, Chile, Spain, United States of America, France, Great Britain, Mexico, and Switzerland. The government which is drawn first shall act as arbitrator. If it does not accept, the government that is drawn second shall act, and if the latter likewise does not consent to undertake this duty, the government that is drawn third shall be the arbitrator.

The lots shall be drawn in the presence of the representatives of

¹ Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. 1 (1892), p. 613.

Ratifications exchanged July 1, 1891.

the parties in dispute by delegates of the other governments of Central America, upon the request of either of the parties.

When the appointment of the arbitrator has been effected and the government selected has accepted, the arbitrator shall summon the two parties, fixing a period, not to exceed six months, within which they shall proceed, through their duly authorized representatives, to state and defend their cases and to submit documents in support thereof. This summons may be served through the diplomatic or consular agent of the arbitrator or of some friendly nation.

If either of the parties fails, for any reason whatever, to appear within the period fixed, the arbitrator shall, notwithstanding, proceed to examine the question, consulting the statements furnished by both parties or by one of them; and without other formality he shall pronounce his verdict, which, on and after the date of its notification in the form already indicated, shall have the force and effect of a binding and irrevocable treaty between the two parties, who shall not contest the arbitral decision, but shall execute it faithfully and scrupulously.

ARTICLE VIII

The contracting parties, considering the two countries, sisters, accept and make their own the following stipulations:

1. Arbitration is compulsory in all matters relating to diplomatic and consular privileges, boundaries, territories, indemnities, navigation rights, and the validity, interpretation or execution of treaties.

2. Arbitration is likewise compulsory, with the reservation mentioned in the following section, in all other matters not specified in the preceding section, whatever may be their cause, their nature, or their subject.

3. Matters which, in the opinion of one only of the nations interested in the dispute, would compromise its autonomy and its independence, are alone exempt from the effect of the provisions of the preceding article. In such cases, arbitration would be optional for that nation, but compulsory for the other party.

No. 122

GUATEMALA—MEXICO

*Renewal of convention of January 26, 1888, for possible arbitration of claims.—Signed (at Guatemala?), December 22, 1891*¹

Whereas on the twenty-sixth of January, 1888, a convention was concluded between the Republic of Guatemala and the United States of Mexico for the adjustment of claims of the two republics by means of a mixed commission, the duration of which was limited to one year reckoning from the date of its first meeting; and inasmuch as this period had been insufficient to settle all the claims presented within the stipulated term:

The President of the Republic of Guatemala and the President of the United States of Mexico, both animated with the desire not to injure the reciprocal interests of the claimants of the two nations, and in order that the whole matter may be brought to a conclusion as was originally stipulated, thus maintaining the friendly relations which unite the two republics, have named as their plenipotentiaries the following, viz.:

For the President of the United States of Mexico, Señor Carlos Américo Lera, Licentiate and Acting Chargé d'Affaires of Mexico to the Republics of Central America; and

For the President of the Republic of Guatemala, Señor Emilio de León, Licentiate and Minister for Foreign Affairs;

Who, after having presented their respective full powers, which have been found to be in good and due form, have agreed on the following articles:

ARTICLE I

The high contracting parties agree to renew, for once only, and for a period not exceeding six months, the convention of the twenty-sixth of January, 1888, with the exclusive object that the mixed commission appointed thereunder shall occupy itself solely in deciding cases which were submitted in due time, and which were not settled by the thirty-first of July of the present year.

ARTICLE II

The commissioners shall meet within four months counting from the exchange of ratifications of this convention.

¹ English: *British and Foreign State Papers*, vol. LXXXIII, p. 369.

Spanish: La Fontaine, *Pasicrisie internationale*, p. 327.

Ratifications exchanged at Guatemala, July 9, 1892.

See No. 110, *ante*, p. 172, for the original convention.

The six months referred to in the preceding article shall be reckoned from the date of the first meeting of the commissioners. During the first of these months the commissioners will receive the statements submitted to them by the respective governments, or their agents, in support or in defence of the claims, and in the four succeeding months will be decided without further procedure all the matters for which the present convention has been concluded. If the commissioners fail to agree upon any point, they will state in writing their respective opinions, and will forward immediately to the arbitrator all the particulars of the case, in order that judgment may be given, after the evidence for and against has been examined, and, if necessary, after having heard the agents of the two governments.

The last month is to be devoted by the arbitrator to the solution of any questions which may be still awaiting his decision.

ARTICLE III

With the exception of the stipulations contained in the two preceding articles, the above-named convention of the twenty-sixth of January, 1888, is renewed in every particular.

ARTICLE IV

The present convention shall be ratified in conformity with the laws in force in each of the two republics, and the exchange of the ratifications shall be made in the city of Guatemala at as early a date as may be possible.

In faith of which the respective plenipotentiaries have signed in duplicate the present convention, and have affixed thereto their respective seals on the twenty-second day of December, one thousand eight hundred and ninety-one.

[Here follow signatures.]

No. 123

UNITED STATES—VENEZUELA

*Convention for arbitrating the claims of the Venezuela Steam Transportation Company.—Signed at Carácas, January 19, 1892*¹

The Governments of the United States of America and the United States of Venezuela, being mutually desirous of removing all causes of difference between them in a manner honorable to both parties and

¹ English and Spanish: *United States Statutes at Large*, vol. 28, p. 1183.
Ratifications exchanged July 28, 1894.

in accordance with their just rights and interests, have resolved to submit to arbitration the claim of the "Venezuela Steam Transportation Company," and have respectively named as their plenipotentiaries to conclude a convention for that purpose:

The President of the United States of America, William L. Scruggs, Henry Ennals, Secretary and Minister Plenipotentiary of the United States at Caracas;

And the President of the United States of Venezuela, Dr. Rafael Sotillo, legal adviser in the Department of Foreign Relations.

Who, after having exhibited their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties agree to submit to arbitration the question whether and, and, if any, what indemnity shall be paid by the Government of the United States of Venezuela to the Government of the United States of America for the alleged wrongs, wrong detention and employment in war or otherwise of the *Steamships Hero, Nubias and San Fernando*, the property of the "Venezuela Steam Transportation Company," a corporation existing under the laws of the State of New York, and a citizen of the United States, and the imprisonment of its officers, citizens of the United States.

ARTICLE II

The question stated in Article I shall be submitted to a board of three commissioners, one to be appointed by the President of the United States of America, one by the President of the United States of Venezuela, and the third who shall not be either an American or a Venezuelan citizen, to be chosen by the two appointed as aforesaid; but if, within ten days from the time of their first meeting as hereinafter provided, they can not agree upon the third commissioner, the Secretary of State of the United States and the Venezuelan Minister at Washington shall forthwith request either the diplomatic representative of Belgium, or that of Sweden and Norway, at their request to name him subject to the restriction aforesaid.

The commissioners to be chosen by the President of the United States of America and the President of the United States of Venezuela shall be appointed within a month from the date of the exchange of the ratifications of this convention.

In case of the death, resignation or incapacity of any of the com-

missioners, or in the event of any of them ceasing or omitting to act, the vacancy shall be filled in the same manner as is herein provided for the original appointment.

ARTICLE III

The commissioners appointed by the President of the United States of America and the President of the United States of Venezuela shall meet in the city of Washington at the earliest convenient moment within three months from the date of the exchange of the ratifications of this convention, and shall proceed to the selection of a third commissioner.

When such commissioner shall have been chosen, either by agreement between the two first named, or in the alternate manner hereinbefore provided, the three commissioners shall meet in the city of Washington at the earliest practicable moment within five months from the date of the exchange of the ratifications of this convention, and shall subscribe, as their first act, a solemn declaration to examine and decide the claim submitted to them in accordance with justice and equity and the principles of international law.

The concurrent judgment of any two of the commissioners shall be adequate for the decision of any question that may come before them, and for the final award.

ARTICLE IV

The commissioners shall decide the claim on the diplomatic correspondence between the two governments relative thereto, and on such legal evidence as may be submitted to them by the high contracting parties within two months from the date of the first meeting of the full commission.

Their decision shall be rendered within three months at farthest from the date of such first meeting, and shall be final and conclusive.

They shall hear one person as agent in behalf of each government and consider such arguments as either of such persons may present; and may, in their discretion, hear other counsel either in support of or in opposition to the claim.

ARTICLE V

If the award shall be in favor of the United States of America, the amount of the indemnity, which shall be expressed in American gold, shall be paid in cash at the city of Washington, in equal annual

sums, without interest, within five years from the date of the award, the first of the five payments to be made within eight months from that date. Each government shall pay its own commissioner and agent, and all other expenses including clerk hire shall be borne by the two governments in equal moieties.

ARTICLE VI

This convention shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof; and by the President of the United States of Venezuela, with the approval of the Congress thereof; and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed and sealed the present convention in duplicate, in the English and Spanish languages.

Done at Carácas this nineteenth day of January, in the year of our Lord one thousand eight hundred and ninety-two.
[Here follow signatures.]

No. 124

GUATEMALA—HONDURAS—NICARAGUA—SALVADOR

Treaty of peace and arbitration.—Signed at San Salvador, May 23, 1892¹

The Governments of Guatemala, Honduras, Nicaragua, and Salvador represented in the Central American Peace Congress by their respective plenipotentiaries, to wit:

Attorney Cayetano Diaz Merida, for Guatemala;

Doctor Adolfo Zúniga, for Honduras;

General Isidro Urtecho, for Nicaragua; and

Doctor Manuel Gallardo, for Salvador.

Desiring to insure the benefits of peace between the Republics of Central America, strengthening at the same time the sentiments of

¹ Spanish: Salazar, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. 1 (1892), p. 488.

The instrument provided that complete ratification was not necessary for it to go into force, and that ratifications were to be communicated instead of exchanged. No certain evidence is at hand that it was ever ratified or in force. A statement in Wiesse, *Tratados de Arbitramiento*, p. 119, may be understood to mean that he thought ratifications were exchanged. It is interesting, and possibly valuable, as an attempt to establish an international court of arbitration. It may be considered an antecedent of the Central American Court of Justice.

fraternity which must be the basis for the settlement of the questions which may arise between them, have agreed to enter into a treaty which shall embrace these objects; and to this effect, after having exhibited their full powers and having held the conferences and discussions required by the case, they have agreed on the following stipulations.

ARTICLE I

The high contracting parties do hereby acknowledge and guarantee as the basis of their public international law the following principles:

First. No intervention in the internal matters of the respective republics;

Secondly. The most strict neutrality in regard to questions or disagreements which might occur between two or more of the contracting republics;

Notwithstanding, should any of said republics consent, raise or aid the organization of factions within its territory, or invade one of the other states occasioning thereby an actual break, then the neutral republics shall make a common cause and shall constitute a defensive alliance with the state thus offended or invaded, until the restoration of peace is obtained; and

Thirdly. Arbitration as the only means to decide or settle all questions or disagreements which may arise between the signatory republics whatever be their cause, nature, or purpose.

ARTICLE II

For the maintenance and enforcement of these fundamental principles, a periodical delegation is hereby established composed of five plenipotentiaries, appointed one for each of the governments of Central America. This delegation shall be denominated "Central American Diet," its installation to take place on the first of January of the coming year one thousand eight hundred and ninety-three.

The sessions of the Central American Diet shall, at the option of the Diet itself last ninety days without being subject to prorogation when the matters to be discussed, or the public welfare so demand, it being able to agree on its adjournment before the expiration of the aforesaid term, if it should consider such adjournment proper.

The meetings of the Central American Diet shall take place, by annual turns, at the capitals of the signatory republics in the following order:

Guatemala, Salvador, Honduras, Nicaragua, and Costa Rica.

ARTICLE III

The Central American Diet shall have the following functions:

First. To offer its peaceful mediation should any difference be threatened between the contracting republics at any time; and

Secondly. To decide as arbiter such questions as are submitted to it when peaceful mediation shall fail to put an end to the conflict.

ARTICLE IV.

The Central American Diet shall have, furthermore, these functions:

First. To formulate all the treaties affecting Private International Law in criminal, civil, and commercial cases, and in matters of procedure, and

Secondly. To formulate treaties for Central American custom, monetary, postal and telegraphic unions.

ARTICLE V

Whenever the signatory republics shall desire to submit their differences or disputes to the arbitration of the Central American Diet, the republic believing itself endangered or injured shall present to the same Diet, through its plenipotentiary, a memorandum stating the grounds of complaint. The plenipotentiary of the republic against which the memorandum shall have been formulated shall present an explanatory memorandum. Should the latter also contain complaints, the plenipotentiary who took the initiative shall reply thereto.

In view of such documents the plenipotentiaries of the republics not directly involved in the question shall deliberate as to the means of conciliation which may seem to them most equitable and efficacious, and shall submit them to the consideration of the plenipotentiaries of the dissenting republics, endeavoring to arrive at an understanding.

If such understanding can not be obtained the qualified plenipotentiaries shall appoint the arbiters who are to compose the Diet, from among the ministers of the friendly nations residing in Central America.

A majority of votes shall constitute a final decision.

ARTICLE VI

Should any dispute arise between two or more of the contracting republics at a time when the Central American Diet is not in session,

the governments not involved therein shall, on having notice thereof, interpose their friendly offices in order to effect a conciliation. Should this not be attainable, they shall urge the contending parties to submit their disagreement to the arbitral decision of the Diet, or of any friendly nation.

Upon the interested governments expressing their desire that the Diet shall decide the pending question or disagreement, it shall be convened without loss of time by any one or more of the mediating or neutral governments.

In this case, the Diet shall proceed in accordance with the provisions of Article V.

ARTICLE VII

When the dissenting governments shall not desire to submit their disputes to the arbitration of the Central American Diet, the designation of the arbiter, the statement of the grounds for dispute, and the rules to be observed until an award is rendered shall be the object of a special treaty.

Said treaty must be signed within a period of four months after the cause of the disagreement has been made known.

ARTICLE VIII

Until the contracting governments shall conclude special treaties regulating the right of asylum and the recognition of public documents, it is established: that the internment of political exiles, stipulated by treaty, shall be effected without other formalities than the demand of the nation whence they came upon the government of the nation giving the asylum.

And it is likewise stipulated that the establishment of the authenticity of public documents emanating from the contracting republics, shall be sufficient to cause the validity and force of such documents to be recognized and to make them effective in any of the other republics for the purposes inherent in their nature just as if they had originated in said other republics.

ARTICLE IX

Agreeably to their respective internal constitutional laws, all treaties and conventions made heretofore, by and between the republics of Guatemala, Salvador, Honduras, Nicaragua, and Costa Rica in regard to peace, friendship, commerce and extradition are considered in force in so far as they do not oppose the present stipulations.

ARTICLE X

The present treaty shall be submitted to the Government of Costa Rica for adhesion.

The complete ratification by the signatory republics is not indispensable for the enforcement of this treaty. Any republic approving it shall communicate the fact to the Government of the Republic of Salvador in order that the latter may bring it to the knowledge of the other contracting states. This procedure shall take the place of the exchange of ratifications between the parties approving it.

In witness whereof the respective plenipotentiaries sign this treaty in quadruplicate in San Salvador this twenty-third day of May, one thousand eight hundred and ninety-two.

[Here follow signatures.]

No. 125

CHILE—UNITED STATES

*Convention for the arbitration of claims of the citizens of either against the government of the other.—Signed at Santiago, August 7, 1892*¹

The United States of America and the Republic of Chile, animated by the desire to settle and adjust amicably the claims made by the citizens of either country against the government of the other, growing out of acts committed by the civil or military authorities of either country, have agreed to make arrangements for that purpose, by means of a convention, and have named as their plenipotentiaries to confer and agree thereupon as follows:

The President of the United States of America, Patrick Egan, Envoy Extraordinary and Minister Plenipotentiary of the United States at Santiago, and the President of the Republic of Chile, Isidoro Errázuriz, Minister of Foreign Relations of Chile;

Who, after having communicated to each other their respective full powers, found in good and true form, have agreed upon the following articles:

ARTICLE I

All claims on the part of corporations, companies or private individuals, citizens of the United States, upon the Government of Chile,

¹ English: *United States Statutes at Large*, vol. 27, p. 965.

Spanish: Montes, *Tratados de Chile*, vol. II, p. 372.

Ratifications exchanged January 26, 1893.

arising out of acts committed against the persons or property of citizens of the United States not in the service of the enemies of Chile, or voluntarily giving aid and comfort to the same, by the civil or military authorities of Chile; and on the other hand, all claims on the part of corporations, companies or private individuals, citizens of Chile, upon the Government of the United States, arising out of acts committed against the persons or property of citizens of Chile, not in the service of the enemies of the United States, or voluntarily giving aid and comfort to the same, by the civil or military authorities of the Government of the United States, shall be referred to three commissioners, one of whom shall be named by the President of the United States, and one by the President of the Republic of Chile, and the third to be selected by mutual accord between the President of the United States and the President of Chile. In case the President of the United States and the President of Chile shall not agree within three months from the exchange of the ratifications of this convention to nominate such third commissioner then said nomination of said third commissioner shall be made by the President of the Swiss Confederation.

ARTICLE II

The said commission, thus constituted, shall be competent and obliged to examine and decide upon all claims of the aforesaid character presented to them by the citizens of either country.

ARTICLE III

In case of the death, prolonged absence or incapacity to serve of one of the said commissioners, or in the event of one commissioner omitting, or declining, or ceasing to act as such, then the President of the United States, or the President of the Republic of Chile, or the President of the Swiss Confederation, as the case may be, shall forthwith proceed to fill the vacancy so occasioned by naming another commissioner within three months from the occurrence of the vacancy.

ARTICLE IV

The commissioners named as hereinbefore provided shall meet in the City of Washington at the earliest convenient time within six months after the exchange of ratifications of this convention, and shall, as their first act in so meeting, make and subscribe a solemn declaration that they will impartially and carefully examine and

decide, to the best of their judgment and according to public law, justice and equity, without fear, favor or affection, all claims within the description and true meaning of Articles I and II, which shall be laid before them on the part of the Governments of the United States and of Chile respectively; and such declaration shall be entered on the record of their proceedings; Provided, however, that the concurring judgment of any two commissioners shall be adequate for every intermediate decision arising in the execution of their duty and for every final award.

ARTICLE V

The commissioners shall, without delay, after the organization of the commission, proceed to examine and determine the claims specified in the preceding articles, and notice shall be given to the respective governments of the day of their organization and readiness to proceed to the transaction of the business of the commission. They shall investigate and decide said claims in such order and in such manner as they may think proper, but upon such evidence or information only as shall be furnished by or on behalf of the respective governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the respective governments in support of, or in answer to, any claim, and to hear, if required, one person on each side whom it shall be competent for each government to name as its counsel or agent to present and support claims on its behalf, on each and every separate claim. Each government shall furnish at the request of the commissioners, or of any two of them, the papers in its possession which may be important to the just determination of any of the claims laid before the commission.

ARTICLE VI

The concurring decisions of the commissioners, or of any two of them, shall be conclusive and final. Said decisions shall in every case be given upon each individual claim, in writing, stating in the event of a pecuniary award being made, the amount or equivalent value of the same in gold coin of the United States; and in the event of interest being allowed on such award, the rate thereof and the period for which it is to be computed shall be fixed, which period shall not extend beyond the close of the commission; and said decision shall be signed by the commissioners concurring therein.

ARTICLE VII

The high contracting parties hereby engage to consider the decision of the commissioners, or of any two of them, as absolutely final and conclusive upon each claim decided upon by them, and to give full effect to such decisions without any objections, evasions, or delay whatever.

ARTICLE VIII

Every claim shall be presented to the commissioners within a period of two months reckoned from the day of their first meeting for business, after notice to the respective governments as prescribed in Article V of this convention. Nevertheless, where reasons for delay shall be established to the satisfaction of the commissioners, or of any two of them, the period for presenting the claim may be extended by them to any time not exceeding two months longer.

The commissioners shall be bound to examine and decide upon every claim within six months from the day of their first meeting for business as aforesaid; which period shall not be extended except only in case of the proceedings of the commission shall be interrupted by the death, incapacity, retirement or cessation of the functions of any one of the commissioners, in which event the period of six months herein prescribed shall not be held to include the time during which such interruption may actually exist.

It shall be competent in each case for the said commissioners to decide whether any claim has, or has not, been duly made, preferred, and laid before them, either wholly, or to any and what extent, according to the true intent and meaning of this convention.

ARTICLE IX

All sums of money which may be awarded by the commissioners as aforesaid, shall be paid by the one government to the other, as the case may be, at the capital of the government to receive such payment, within six months after the date of the final award, without interest, and without any deduction save as specified in Article X.

ARTICLE X

The commissioners shall keep an accurate record and correct minutes or notes of all their proceedings, with the dates thereof; and the Governments of the United States and of Chile may each appoint and employ a secretary versed in the languages of both

countries, and the commissioners may appoint any other necessary officer or officers to assist them in the transaction of the business which may come before them.

Each government shall pay its own commissioner, secretary and agent or counsel, and at the same or equivalent rates of compensation, as near as may be, for like officers on the one side as on the other. All other expenses, including the compensation of the third commissioner, which latter shall be equal or equivalent to that of the other commissioners shall be defrayed by the two governments in equal moieties.

The whole expenses of the commission, including contingent expenses, shall be defrayed by a ratable deduction on the amount of the sums awarded by the commissioners, provided always that such deduction shall not exceed the rate of five per cent on the sum so awarded. If the whole expenses shall exceed this rate, then the excess of expense shall be defrayed jointly by the two governments in equal moieties.

ARTICLE XI

The high contracting parties agree to consider the result of the proceedings of the commission provided for by this convention as a full, perfect and final settlement of any and every claim upon either government within the description and true meaning of Articles I and II; and that every such claim, whether or not the same may have been presented to the notice of, made, preferred or laid before the said commission, shall, from and after the conclusion of the proceedings of the said commission, be treated and considered as finally settled, concluded and barred.

ARTICLE XII

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof and by the President of the Republic of Chile, with the consent and approbation of the Congress of the same, and the ratifications shall be exchanged at Washington, at as early a day as may be possible within six months from the date hereof.

In testimony whereof the respective plenipotentiaries have signed the present convention, in the English and Spanish languages, in duplicate, and hereunto affixed their respective seals.

Done at the city of Santiago the seventh day of August, in the year of our Lord one thousand eight hundred and ninety-two.

[Here follow signatures.]

No. 126

ECUADOR—UNITED STATES

*Convention for the arbitration of the claim of Julio R. Santos.—Signed at Quito, February 28, 1893*¹

The United States of America, and the Republic of Ecuador, being desirous of removing all questions of difference between them, and of maintaining their good relations, in a manner consonant to their just interests and dignity, have decided to conclude a convention, and for that purpose have named as their respective plenipotentiaries, to wit:

The President of the United States, Rowland Blennerhassett Mahany, Envoy Extraordinary and Minister Plenipotentiary of the United States to Ecuador; and

The President of Ecuador, Honorato Vazquez, Plenipotentiary *ad hoc*, of that Republic;

Who, having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The two governments agree to refer to the decision of an arbitrator, to be designated in the manner hereinafter provided, the claim presented by the Government of the United States against that of the Republic of Ecuador, in behalf of Julio R. Santos, a native of Ecuador, and naturalized as a citizen of the United States in the year 1874; the said claim being for injuries to his person and property, growing out of his arrest and imprisonment by the authorities of Ecuador, and other acts of the said authorities in the years 1884 and 1885.

ARTICLE II

1. In order to secure the services of a competent and impartial arbitrator, it is agreed that the Government of Her Britannic Majesty be requested to authorize its diplomatic representative in Quito, to act in that capacity; or in case of his absence from the country, that this permission be given his successor.

2. In case of the failure of the diplomatic representative of Her Britannic Majesty's Government, or of the successor of the said

¹ English and Spanish: *United States Statutes at Large*, vol. 28, p. 1205.

Ratified by the United States, September 16, 1893; ratified by Ecuador, August 26, 1894; ratifications exchanged at Washington, November 6, 1894.

representative, to act as such arbiter, then the said representative, or his successor, be requested to name an arbitrator who shall not be a citizen either of the United States or of Ecuador.

3. Any vacancy in the office of arbitrator, to be filled in the same manner as the original appointment.

ARTICLE III

1. As soon as may be after the designation of the arbitrator, not to exceed the period of ninety days, the written or printed case of each of the contracting parties, accompanied by the documents, the official correspondence and other evidence on which each relies, shall be delivered to the arbitrator, and to the agent of the other party; and within ninety days after such delivery and exchange of the cases of the two parties, either party may, in like manner, deliver to the arbitrator, and to the agent of the other side, a counter case to the documents and evidence presented by the other party, with such written or printed argument as may, by each, be deemed proper. And each government shall furnish upon the request of the other, or its agent, such papers in its possession as may be deemed important to the just determination of the claim.

2. Within the last named period of ninety days, the arbitrator may also call for such evidence as he may deem proper, to be furnished within the same period; and shall also receive such oral and documentary evidence as each government may offer. Each government shall also furnish, upon the requisition of the arbitrator, all documents in its possession, which may be deemed by him as material to the just determination of the claim.

3. Within sixty days after the last mentioned period of ninety days, the arbitrator shall render his opinions and decisions in writing, and certify the same to the two governments. These decisions and opinions shall embrace the following points, to wit:

(a) Whether, according to the evidence adduced, Julio R. Santos, by his return to and residence in Ecuador, did or did not, under the provisions of the treaty of naturalization between the two governments, concluded May 6, 1872, forfeit his United States citizenship as to Ecuador, and resume the obligations of the latter country.

(b) If he did not so forfeit his United States citizenship, whether or not it was shown by the evidence adduced, that Julio R. Santos has been guilty of such acts of unfriendliness and hostility to the Government of Ecuador, as, under the law of nations, deprived him

of the consideration and protection due a neutral citizen of a friendly nation.

ARTICLE IV

1. In case either one or the other of the points recited in clauses (a) and (b) of the last preceding article, should be decided in favor of the contention of the Government of Ecuador, said government shall be held to no further responsibility to that of the United States for arrest, imprisonment, and other acts of the authorities of Ecuador towards Julio R. Santos, during the years 1884 and 1885.

2. On the other hand, should the arbitrator decide the above recited points against the contention of Ecuador, he shall, after a careful examination of the evidence touching the injuries and losses to the person and property of the said Santos, which shall have been laid before him concerning the arrest and imprisonment of said Santos, and other acts of the authorities of Ecuador towards him, during the years 1884 and 1885, award such damages for said injuries and losses as may be just and equitable; which shall be certified to the two governments and shall be final and conclusive.

ARTICLE V

1. Both governments agree to treat the decisions of the arbitrator and his award as final and conclusive.

2. Should a pecuniary indemnity be awarded, it shall be specified in the gold coin of the United States, and shall be paid to the government thereof within sixty days after the beginning of the first session of the Congress of Ecuador, held subsequent to the rendition of the award, and the said award shall bear interest at six per cent from the date of its rendition.

3. The Government of Ecuador, however, reserves the right to pay, before the expiration of the above stated time, the whole amount to the Government of the United States, with interest at six per cent from the date of the announcement of the award till the date of the payment thereof.

ARTICLE VI

1. Each government shall pay its own agent and counsel, if any, for the expenses of preparing and submitting its case to the arbitrator.

2. All other expenses, including reasonable compensation to the secretary, if any, of the arbitrator, shall be paid upon the certificates of the arbitrator, by the two governments in equal moieties.

ARTICLE VII

The present convention shall be ratified by the President of the United States, by and with the advice and consent of the Senate thereof; by the Congress of Ecuador and by the President thereof; and the ratifications exchanged at Washington as soon as possible.

In faith whereof, the plenipotentiaries have signed and sealed this convention in duplicate, in the City of Quito, this twenty-eighth day of February, in the year of our Lord one thousand eight hundred and ninety-three.

[Here follow signatures.]

No. 127

MEXICO—SALVADOR

*Provision for general arbitration in a treaty of friendship, commerce and navigation.—Signed at Mexico, April 24, 1893*¹

ARTICLE I

The United States of Mexico and the Republic of Salvador bind themselves to maintain perpetually, by all the means prescribed by the law of nations, the peace and cordial and sincere friendship that happily subsists between their respective governments and people, without exception of person or place.

If, unfortunately, there should arise between the high contracting parties any controversy or disagreement, the same shall be arranged in an amicable and fraternal manner by diplomatic methods; but if such settlement should not be reached, in spite of the vigilance exercised by the respective governments, the latter bind themselves, formally and solemnly, to terminate the controversy by the civilized means of arbitration, whenever the matter may be susceptible of such method of settlement.

As soon as an arbitrator has been nominated and the office accepted by him, the contracting parties shall draw up a special convention, in order to fix with precision and clearness the question in dispute and the procedure to be observed in the arbitration proceedings.

Should there be a disagreement as to the terms of the convention

¹ English: *British and Foreign State Papers*, vol. xcv, p. 1353.

Spanish: *Tratados y Convenciones Concluidos y Ratificados por México*, vol. II (1896), p. 319. Ratifications exchanged at Mexico, November 16, 1893.

referred to, the parties shall submit all matters about which there may be dispute for the decision of the arbitrator, who shall, in that case, have the faculty of fixing previously the procedure of the arbitration tribunal.

Should the high contracting parties be unable to agree in the nomination of the arbitrator they shall appoint arbitration commissions, composed of one or more individuals, of an equal number for either party, to which the questions in dispute shall be submitted, and whose definitive award shall be obligatory for both governments. The arbitrators thus appointed shall have the faculty of nominating an umpire in case of disagreement.

ARTICLE XXV

The high contracting parties expressly bind themselves that, if any one or more of the articles of the present treaty should be infringed or violated, neither party shall take or authorize acts of reprisal of any kind. The controversies that might arise from such a cause shall be settled in conformity with the procedure stipulated in Article I of the treaty.

No. 128

HONDURAS—NICARAGUA

*Treaty for the settlement by a mixed commission and ultimate arbitration of the boundary between the two countries.—Signed at Tegucigalpa, October 7, 1894*¹

The Governments of the Republics of Honduras and Nicaragua, desirous of settling in a friendly manner their differences in regard to the delimitation of boundary lines which until now it has not been possible to determine, and desirous moreover that so vexatious a subject should be settled to the satisfaction of both countries, with all the cordiality and deference proper to nations which are brothers, neighbors and allies, have deemed it suitable to conclude a treaty for the realization of these aspirations; and to that effect they have appointed as their respective plenipotentiaries:

The President of the Republic of Honduras, Dr. César Bonilla, his

¹ Spanish: *Tratados Internacionales de Nicaragua* (1909), p. 237.

Ratifications exchanged at San Salvador, December 24, 1896.

The disagreement anticipated and provided for in Articles III to V occurred and the points which the commission was unable to agree upon were submitted to the arbitration of the King of Spain as provided. See de Martens, *Nouveau recueil général*, 2d series, vol. xxxv, p. 563; and *Tratados Vigentes de Honduras, pt. I, Centro-America* (1913), pp. 364–8.

Secretary of State in the Department of Foreign Relations; and the President of the Republic of Nicaragua, Don José Dolores Gómez, his Envoy Extraordinary and Minister Plenipotentiary to the Republics of Central America;

Who, after having examined their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The Governments of Honduras and Nicaragua shall name commissioners who shall be authorized to constitute a mixed boundary commission, whose duty it shall be to settle in a friendly manner all the existing doubts and differences, and to demarcate on the spot the dividing line which is to constitute the boundary between the two republics.

ARTICLE II

The mixed commission, composed of an equal number of members appointed by both parties, shall meet at one of the frontier towns, most conveniently situated for the work, and shall there begin its labors in conformity with the following rules:

(1) Boundary lines regarding which the two republics may be in agreement, or with regard to which neither of them may raise objections, shall constitute the boundary between Honduras and Nicaragua.

(2) Boundary lines traced in public documents which are not contradicted by other public documents of higher authority shall likewise constitute the boundary between Honduras and Nicaragua.

(3) It is understood that each republic has title to the territory which constituted the respective domain of Honduras and Nicaragua at the date of their independence.

(4) In determining the boundary line the mixed commission shall be guided by due proof of sovereignty and shall not attribute any legal value to the fact of actual possession alleged by one or the other of the parties.

(5) In the absence of proof of sovereignty the maps of the two republics and the geographical documents or public and private documents of any other nature, which may throw light upon the matter, shall be consulted, and the boundary line between the two republics shall be that which the mixed commission shall equitably determine as a result of such study.

(6) The same mixed commission, if it deem it proper to do so, may

grant compensations and even fix indemnities in order to establish as far as possible a well defined, natural boundary line.

(7) In studying the charts, maps and other similar documents which the two governments may present, the mixed commission shall choose those which it may deem more reasonable and correct.

(8) In case the mixed commission should fail to reach an amicable agreement in any matter, it shall record the fact in two separate reports, signing a duplicate detailed copy, with a statement of the arguments of both parties, and it shall continue its study in regard to the other points of the line of demarcation, disregarding the unsettled points until the rest of the dividing line is determined.

(9) The reports to which the preceding paragraph refers, shall be sent by the mixed commission, one to each of the interested governments to be preserved in the national archives.

ARTICLE III

The part or parts of the boundary line which the mixed commission, to which the present treaty refers, may not have settled, shall be submitted one month, at the latest, after the final session of the said commission, to the decision, without appeal, of an arbitral body which shall be composed of one representative of Honduras, another of Nicaragua, and a third member chosen from the foreign diplomatic corps accredited to Guatemala, the latter to be designated by the first two, or chosen by lot from two lists each containing three names, and proposed one by each party.

ARTICLE IV

The arbitration tribunal shall be organized in the city of Guatemala within twenty days following the dissolution of the mixed commission, and within the next ten days shall begin its labors, which are to be recorded in a register, kept in duplicate, and its decisions shall be reached by a majority vote.

ARTICLE V

In case the foreign diplomatic representative should decline the appointment, another selection shall take place within the following ten days, and so on. When the membership of the foreign diplomatic corps is exhausted, any other foreign or Central American publicist may be selected, with the consent of the Honduran and Nicaraguan commissions, and if this consent can not be obtained, the point or

points in dispute shall be submitted to the decision of the Government of Spain, and in case the latter declines to act, to the decision of any South American government upon which the foreign offices of both countries may agree.

ARTICLE VI

The procedure and time limit to which the arbitration court shall be subject, are as follows:

(1) Within twenty days following the date on which the acceptance of the third arbitrator has been notified to the parties, the latter shall present to it, through the medium of their attorneys, their complaints, charts, maps and documents.

(2) If there should be any arguments, a copy of them shall, within eight days following their presentation, be given to the respective opposing attorneys who shall have a period of ten days within which to make rejoinder and to present any other documents in support of their case.

(3) The arbitral decision shall be rendered within the twenty days following the date on which the period for refuting arguments shall have expired, whether arguments have or have not been presented.

ARTICLE VII

The arbitral decision, whatever it be, rendered by a majority vote, shall be accepted as a formal treaty, obligatory and perpetual between the high contracting parties, and shall not be subject to appeal.

ARTICLE VIII

The present convention shall be submitted in Honduras and in Nicaragua for constitutional ratification, the exchange of which ratifications shall take place in Tegucigalpa or in Managua, within sixty days following the date on which both governments shall have complied with the stipulations of this article.

ARTICLE IX

The provisions of the preceding article shall not hinder in any manner whatever the immediate organization of the mixed commission, which shall begin its labors, at the latest, two months after the last ratification, in conformity with the stipulations of the present convention, without prejudice to the right to organize before the ratifications shall have taken place, should the latter be delayed, in order to profit by the dry or summer season.

ARTICLE X

Immediately upon the exchange of the ratifications of this convention, whether the labors of the mixed commission have begun or not, the Governments of Honduras and Nicaragua shall appoint their commissioners who, in conformity with Article IV, are to be members of the arbitral court, so that by organizing in a preliminary meeting they may name the third arbitrator and communicate his name to the secretaries of the respective legations, in order to obtain the acceptance of the nominee. If the latter should decline to serve they shall forthwith proceed to the nomination of another third arbitrator in the manner stipulated, and so on until the arbitration court shall have been constituted.

ARTICLE XI

The periods defined in the present treaty for the nomination of arbitrators, the opening sessions, the ratifications and their exchange, as well as any other periods determined hereby, are not definitive, nor shall they in any way operate to nullify the said acts if not completed within the specified time. The object of these periods has been to give precision to the work; but if for any cause they can not be lived up to, it is the will of the high contracting parties that the negotiations shall proceed until brought to the successful conclusion desired by the contracting parties. To this end they agree that this treaty shall run for the period of ten years, so that, in case its execution should be delayed, it may be neither revised nor modified in any manner whatever within that period, nor the question of boundaries be settled by any other means.

In faith of which, the plenipotentiaries of the Republics of Honduras and Nicaragua sign the same, in duplicate, and affix their respective seals thereto, in the city of Tegucigalpa, October 7, 1894, the seventy-fourth year of the independence of Central America.
[Here follow signatures.]

No. 129

HONDURAS—NICARAGUA

*Provision for general arbitration in a treaty of friendship, commerce, and extradition.—Signed at Tegucigalpa, October 20, 1894*¹

ARTICLE I

Should any of the articles of this treaty be in any manner violated or infringed, or should any ground for misunderstanding between the two republics arise, it is expressly stipulated that neither of the contracting parties shall order or authorize acts of reprisal, nor declare war until all peaceful means for satisfaction or harmony have been exhausted. These means shall be the exposition of the offenses or damages caused, accompanied by competent proofs or testimony, in memorials presented by the government who is aggrieved; and should no satisfaction be given, the decision of the matter shall be submitted to the arbitration of some government of Central America, or any other of the American continent. .

No. 130

HONDURAS—SALVADOR

*Convention for settling the boundary disputes by a mixed commission with ultimate arbitration.—Signed at San Salvador, January 19, 1895*²

The Governments of the Republics of Honduras and Salvador, desiring to settle in a friendly manner their differences in regard to the delimitation of boundary lines which, until now, they have not been able to determine, and desiring, moreover, that so troublesome a matter may be settled to the satisfaction of both countries with all the cordiality and deference proper to nations which are brothers,

¹ Spanish: *Tratados de Arbitraje de Nicaragua*, p. 116.

Ratifications exchanged at San Salvador, December 24, 1896. See Bonilla, *Tratados Internacionales de Nicaragua*, p. 233, following a copy of the treaty.

² Spanish: *Tratados Vigentes de Honduras* (1905), p. 101.

Ratifications exchanged at San Salvador, January 20, 1896.

The date of the signing of this treaty and the date of the exchange of the ratifications were both the same as those of the treaty of commerce, friendship, etc., between the same countries, from which the arbitral provision is quoted in the following, No. 131, *post*, p. 221.

La Fontaine, *Pasicrisie internationale*, p. 505, quotes the treaty just as it stands in the source cited above. In the act of exchange given on p. 107 of that source a slight change is introduced in the fourth clause of the second article. That change has been introduced into the body of the text as here printed. Ramirez, *Pactos Internacionales de El Salvador* (1910), incorporates the change in the body of the treaty as here.

neighbors and allies, have deemed it suitable to conclude a treaty for the realization of these aspirations, and to that end have named their respective plenipotentiaries: The President of the Republic of Honduras, General Manuel Bonilla, Envoy Extraordinary and Minister Plenipotentiary; and the President of the Republic of Salvador, Dr. Jesús Velasco, present Under Secretary for Foreign Affairs, in charge of that office; who, having examined their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

The Governments of Honduras and Salvador shall name commissioners who shall be authorized to constitute a mixed boundary commission, whose duty it shall be to settle in a friendly manner all the existing doubts and differences, and demarcate on the spot the dividing line which is to constitute the boundary between the two republics.

ARTICLE II

The mixed commission composed of an equal number of members of both parties shall meet at one of the frontier towns most conveniently situated for the work and shall there begin its labors in conformity with the following rules:

1. Boundary lines regarding which both republics may be in agreement, or with regard to which neither of them may raise objections, shall constitute the boundary line between Honduras and Salvador.

2. Boundary lines traced in public documents, which are not contradicted by other public documents of higher authority, shall likewise constitute the boundary line between Honduras and Salvador.

3. It is understood that each republic has title to the territory which constituted the respective domain of Honduras and Salvador at the date of their independence.

4. In determining the boundary line the mixed commission shall be guided by due proof of sovereignty and will not recognize any legal force in the fact of possession which may be alleged by either party.

5. In the absence of proof of sovereignty, the maps of the two republics and geographical documents or public or private documents of any other nature which may throw light upon the matter shall be consulted; and the boundary line between the two republics shall be that which the mixed commission shall equitably determine as a result of such study.

6. The mixed commission, if it deem it proper to do so, may grant compensation and even fix indemnities in order to establish as far as possible a well defined, natural boundary line.

7. In studying the charts, maps and other similar documents that the two governments may present, the mixed commission shall choose those which it may deem more reasonable and correct.

8. In case the mixed commission should fail to reach an amicable agreement upon any matter, it shall record the fact in two separate reports, signing a duplicate detailed copy, with a statement of the arguments of both parties, and it shall continue its study in regard to the other points of the line of demarcation, disregarding the unsettled point until the rest of the dividing line is determined.

9. The reports to which the preceding paragraph refers shall be sent by the mixed commission, one to each of the interested governments to be preserved in the national archives.

ARTICLE III

The part or parts of the boundary line which the mixed commission to which the present treaty refers, may not have settled, shall be submitted one month, at the latest, after the final session of the said commission, to the decision, without appeal, of an arbitral body which shall be composed of one representative of Honduras, another of Salvador, and a third member chosen from the foreign diplomatic corps accredited to Guatemala, the latter to be designated by the first two, or chosen by lot from two lists each containing three names, and proposed one by each party.

ARTICLE IV

The arbitral tribunal shall be organized in the city of Guatemala within twenty days following the dissolution of the mixed commission, and within the next ten days shall begin its labors, which are to be recorded in an authenticated register, and its decisions shall be reached by a majority vote.

ARTICLE V

In case the foreign diplomatic representative should decline to serve as umpire, election of another shall take place within the ten days following and so on successively. When the names of the members of the foreign diplomatic corps shall have been exhausted, the election, by agreement of the commissioners of Honduras and

Salvador, may go to any other foreign or Central American public man; and if this consent can not be obtained, the disputed point or points shall be submitted to the decision of the Government of Spain, and in case the latter should decline to act, to any other [*sic*] South American government upon which the chancelries of both countries may agree.

ARTICLE VI

The proceedings and the periods of time to which the arbitration court shall be subject are as follows:

(1) Within the twenty days following the date on which the acceptance of the third arbitrator shall have been notified to the parties, the latter shall present to him, through the intermediary of their attorneys, their petitions, plans, maps and documents.

(2) If there should be complaints, copies thereof shall be transmitted to their respective opposing counsel within the eight days following their presentation, a period of ten days being granted to them to make rebuttal and to present any other documents regarding the case that they may deem proper.

(3) The award shall be rendered within the twenty days following the date on which shall have expired the period allowed for contesting allegations, whether such allegations are presented or not.

ARTICLE VII

The award adopted by a majority vote, whatever it may be, shall be considered as a perfect, obligatory and perpetual treaty between the high contracting parties and shall be unappealable.

ARTICLE VIII

The present convention shall be submitted in Honduras and Salvador for the constitutional ratifications, and the exchange of the latter shall take place at Tegucigalpa or at San Salvador within the sixty days following the date on which both governments may have complied with the stipulation in this article.

ARTICLE IX

The provision of the preceding article in no way interferes with the immediate organization of the mixed commission, which shall begin its studies at the latest two months after the last ratification, in conformity with what has been stipulated in the present convention, without prejudice to do so before the ratifications have taken place.

if the latter are delayed, so as to profit by the dry season or by the summer.

ARTICLE X

Immediately after the exchange of this convention, whether or not the labors of the mixed commission shall have been begun, the Governments of Honduras and Salvador shall appoint the representatives who, in conformity with Article IV, shall constitute the arbitration court; so that, having organized themselves into a preparatory tribunal, they may name the third arbitrator and communicate his name to the respective secretaries of relations in order to obtain the confirmation of the appointee.

If the latter should decline to serve, then the appointment of a new third arbitrator shall be proceeded with, in the form stipulated, and thus successively until the arbitration court shall be organized.

ARTICLE XI

The periods of time set down in the present treaty for the appointment of arbitrators, the commencement of the studies, the ratifications and exchange thereof, just as for any other periods therein stipulated, shall not be final, nor shall they nullify acts not completed accordingly. Its object was to give precision to the work; but if for any cause whatever they could not be complied with, it is the wish of the high contracting parties that the reorganization should continue, until terminated in the form herein stipulated, that is to say, in such form as they may deem proper. To this end, they agree that this treaty remain in force during ten years, in case its execution should be interrupted, within which period it may not be revised nor modified in any manner whatever, nor the question of boundaries be settled in any other way.

In testimony of which, the plenipotentiaries of the Republics of Honduras and Salvador sign in duplicate and authenticate them with their respective seals, in the city of San Salvador on January 19, one thousand eight hundred and ninety-five.

[Here follow signatures.]

No. 131

HONDURAS—SALVADOR

*General provision for arbitration in a treaty of commerce, friendship, arbitration, and extradition.—Signed at San Salvador, January 19, 1895*¹

ARTICLE XLVII

Should any articles of this treaty be in any manner violated or infringed, or should other cause of disagreement arise between the two republics, it is expressly stipulated that neither of the contracting parties shall order or authorize acts of reprisal nor shall declare war until all peaceful means for satisfaction and understanding have been exhausted. These means shall be the exposition of the offenses or damages caused, with competent proofs or testimony, in memorials presented by the aggrieved government, and if no due satisfaction is given to it, the decision of the matter shall be submitted to the arbitration of one of the governments of Central America, or to any other of the American continent. The appointment of arbitrators shall be made by mutual agreement of the two high contracting parties, at the latest, within sixty days after the publication in the official journal of the note demanding said appointment from the other government; and in the event of the two parties not being able to come to an agreement as to the designation of the arbitrator, they shall proceed to choose the latter by lot from among the governments of Colombia, Chile, Argentina, Peru, Bolivia, Venezuela, Spain, and Switzerland.

The first drawn shall be the arbitrator, and should it not accept, then the second, and so on.

The drawing shall be made in the presence of the representatives of the two interested parties by the delegates of the other governments of Central America, called upon for this purpose by the contending parties.

After the arbitrator has been appointed and his appointment accepted by him, the two parties shall be summoned, fixing a reasonable term not to exceed six months, to appear within said term through their duly authorized representatives to explain and defend their case, presenting the documents in support thereof. This

¹ Spanish: *Tratados Vigentes de Honduras* (1905), p. 92.

Ratifications exchanged at San Salvador, January 20, 1896.

The dates of the signing of this treaty and of the exchange of the ratifications were the same as those of the boundary arbitration convention quoted *ante*, No. 130, p. 216.

summons may be made through a diplomatic or consular agent of the arbitrator or of any other friendly nation.

Should either of the parties fail to appear with the proofs and pleadings within the term fixed, whatever the cause for such default may be, the arbitrator shall, notwithstanding, proceed to take cognizance of the matter submitted on the strength of the evidence furnished by one or both of the parties, and without any further formality shall render his award which, from the date of its notification in the manner provided for, shall acquire the force and validity of an obligatory and unimpeachable treaty between the contracting parties who shall make no claims against the arbitral award and shall faithfully and exactly comply therewith.

No. 132

GUATEMALA—HONDURAS

*Convention for settling boundary by a mixed commission with ultimate arbitration.—Signed at Guatemala, March 1, 1895*¹

The Governments of the Republics of Guatemala and Honduras, desirous of providing definitively for the demarcation of the boundaries between the two countries, which hitherto it has not been possible to do and the absence of which has given rise to difficulties that it is for the common interest to remove, and being desirous also that so troublesome a matter should be settled to the satisfaction of all parties with the greatest cordiality and with that deference which should exist between neighboring and friendly nations, have thought best to celebrate a convention which shall fulfil these aspirations, and have, therefore, named their respective plenipotentiaries:

The President of Guatemala, Jorge Muñoz, his Secretary of State for Foreign Affairs; and

The President of the Republic of Honduras, Don Juan Angel Arias, his Secretary of State, and now Envoy Extraordinary and Plenipotentiary of his Government to that of Guatemala.

Who, having examined their respective powers, have agreed on the following articles:

¹ English: *British and Foreign State Papers*, vol. LXXXVII, p. 530.

Spanish: *Tratados Vigentes de Honduras*, 1905, p. 31.

Ratifications exchanged at Guatemala, January 20, 1896. On this date the ratifications were also exchanged of the general treaty signed by the same powers on the day following the signature of this convention. See No. 133, *post*, p. 227.

ARTICLE I

The Governments of Guatemala and Honduras shall name a mixed technical commission, composed of an equal number of members for each party, to study the antecedents, documents, and data existing as to the limits of both republics.

ARTICLE II

As soon as said commission is organized, the members shall begin their studies, and may make upon the frontier all the surveys, operations, and works, having as a meeting place the city of Ocotepeque.

ARTICLE III

The commission shall record the results of its studies and observations by statements that shall be written out in a book to be kept in duplicate for that purpose. If in one or other of the points on which the commission is engaged the members thereof can not agree, they shall set forth their difference of opinion in the respective statements, each stating the basis of his opinion, and this being done they shall continue their study of the remaining points until their work be completed.

ARTICLE IV

On the termination of its work, the commission shall send the volumes of records to the respective governments, and shall propose to them the bases which, in their opinion, should be adopted to celebrate a treaty to fix definitively the boundary lines between the two republics, with a plan on which shall be traced the dividing line as they may consider it should be marked according to the result of their studies.

ARTICLE V

In view of the bases proposed by the commission, the contending governments shall proceed to discuss them, and to define a treaty of limits between Guatemala and Honduras. With this object both governments shall name their representatives, who shall meet in Guatemala or Tegucigalpa at the latest sixty days after the labors of the mixed commission shall have been finished.

ARTICLE VI

In order to pursue the proper course, the contracting governments, after the mixed commission shall have presented their report, shall give their consideration to the observations and studies of said

commission, and the lines marked in public documents not contradicted by others of the same nature and of greater force, giving to each the value corresponding to it according to its antiquity and juridical efficacy; the extent of the territory which formed the ancient provinces of Guatemala and Honduras at the date of their independence; the dispositions of the Royal Ordinance of Intendants which then ruled; and, in general, all documents, maps, plans, etc., which may lead to clearing up the truth, preference being given to those which by their nature should have greater force owing to their antiquity, or being more clear, just, or impartial, or for any other such good reason according to the principles of justice.

Possession shall only be considered valid so far as it is just, legal, and well founded, in conformity with general principles of equity, and with the rules of justice sanctioned by the law of nations.

ARTICLE VII

In order to arrive at an agreement as to the fixing of the boundary line between Guatemala and Honduras, the respective governments may, if they hold it to be necessary or convenient, adopt the system of equitable compensation, bearing in mind the rules and usages established in international practice.

ARTICLE VIII

As soon as the two high contracting powers shall have definitely decided on the dividing line of the two republics, it is established from thenceforth that the national properties which shall remain on one or other side of it shall belong respectively to the republic in whose territory they shall be comprised; and that the private properties which may exist under legitimate title and with priority to the present agreement shall be duly respected, and shall enjoy all the guaranties which the constitution and laws of each one of the two countries may establish for their subject, to which laws the said properties shall be in all respects subjected.

ARTICLE IX

If the governments should not be able to come to accord on any one or more of the points of discussion, they agree to submit the issue to an arbitrator, who shall be the President of any one of the Central American republics, in the following order: Salvador, Nicaragua, and Costa Rica. The nomination of the arbitrator shall be made at the latest within sixty days of the publication by the official gazette of

the note in which one of the contracting governments calls upon the other for the said nomination.

ARTICLE X

In case of a refusal by or impediment in the way of the Presidents of the Central American republics, the point or points at issue shall be submitted to the decision of His Majesty the King of Spain, and, on his failure to serve, to the President of any one of the republics of South America, as may be agreed by the chancelries of the two countries.

ARTICLE XI

The procedure and limitations to which the arbitral tribunal shall be subject are the following:

1. Within sixty days after the date on which the acceptance of the arbitrator shall be announced to the two high powers they shall submit to him their claims, plans, maps, and documents.

2. The arbitrator shall communicate to the representative of each government the claim of the opposite party within eight days following its presentation.

3. Each government shall have a right to refute the claim of the other within the ninety days following the date on which it shall have been communicated to him, and both replies may be supported by maps, plans, and documents.

4. The arbitrator shall give his award within 180 days following the date on which the time for refuting the claims shall have lapsed, whether such refutations have or have not been presented.

5. The arbitrator may delegate his functions for the furtherance and study of the matter, but he must directly and personally give the definitive award.

ARTICLE XII

The decision of the arbitrator, be it what it may, shall be considered a perfected agreement, obligatory and perpetual between the high contracting powers, and no appeal against it shall be admitted.

ARTICLE XIII

The present convention shall be submitted in Guatemala and Honduras for the constitutionally legal ratifications, and the exchange of these shall take place at Guatemala or Tegucigalpa within sixty days after the date on which both governments shall have fulfilled that which is stipulated in this article.

ARTICLE XIV

The stipulations of the preceding article shall not in any way prevent the immediate organization of the mixed commission, which shall begin its studies, at latest, two months after the last ratification, in conformity with the decisions contained in the present agreement. Such operations may, however, commence before the ratifications are effected, should the latter be delayed, in order to take advantage in the field work of the dry or summer season.

ARTICLE XV

Immediately after the exchange of the ratifications of this convention, whether the labors of the mixed commission shall have been commenced or not, the governments of Guatemala and Honduras shall designate the arbitrator, who, in conformity with Article IX, is to give his decision on the point or points in which the said governments may come to disagree, soliciting his acceptance or non-acceptance of such appointment. In case of his refusal, another arbitrator shall be nominated according to the order established in Article X.

ARTICLE XVI

None of the periods of time fixed in this treaty shall have a final character, nor shall they give rise to nullity of any kind. The purpose with which they have been fixed is that precision be given to the work; but if for any cause they are not sufficient for the object in view, it is the wish of the high contracting powers that the negotiations should be carried on till terminated in the stipulated form, as may be considered most convenient. To this end they agree that the present convention shall last ten years in case of its execution being interrupted, during which time it can not be reversed or modified in any way, except by special stipulation to the contrary, nor shall the question of limits be settled by any other means.

In virtue of which the plenipotentiaries of Guatemala and Honduras sign in duplicate and affix their respective seals in the city of Guatemala, the first of March, 1895, seventy-fourth year of the independence of Central America.

[Here follow signatures.]

No. 133

GUATEMALA—HONDURAS

*Provision for general arbitration in a general treaty defining the relations between the two countries.—Signed at Guatemala, March 2, 1895*¹

ARTICLE I

There shall be continual and perpetual peace, and sincere friendship between the Republics of Guatemala and Honduras. In order to reach this end, the respective governments shall endeavor to unify their external policy, act in accord in the matters of general interest for Central America, and work harmoniously in order that the same uniformity and harmony may exist among the other governments of Central America. They will endeavor also to come to an agreement in order to unify the diplomatic representation of Guatemala and Honduras abroad, and to assimilate as far as possible their laws and internal administration. The Governments of Guatemala and Honduras shall maintain in both countries constant union and fraternity, acting in perfect agreement in order to stimulate their moral, intellectual, commercial, and agricultural progress.

ARTICLE II

If unfortunately any difference should arise between the Republics of Guatemala and Honduras, they shall endeavor to terminate it in a friendly manner, but if this is not possible they shall be obliged to appeal to arbitration as a civilized and fraternal solution. The selection of arbitrators shall be made preferentially from among the Presidents of Salvador, Nicaragua, and Costa Rica, the choice being confined to the president of one of these republics which may not have claims pending against either of the two high contracting powers.

ARTICLE III

The nomination of the arbitrators shall be made by mutual consent between the two high contracting powers, at latest within sixty days

¹ English: *British and Foreign State Papers*, vol. LXXXVII, p. 673, under the incorrect date, March 10.

Spanish: *Tratados Vigentes de Honduras* (1905), p. 5.

Ratifications exchanged at Guatemala, January 20, 1896. On the same date the ratifications were exchanged of the convention for settling the boundary signed by the same powers on the day preceding that on which this treaty was signed. See No. 132, *ante*, p. 222.

The fifth article of this has nothing to do with arbitration but provides for the offer of good offices by the signatory powers to keep other Central American powers from war.

of the publication in either government's official gazette of the note in which the other is called upon to make said nomination. If the two parties can not agree in the selection of the arbitrator, their representatives shall proceed by lottery to select such arbitrator from amongst the sovereigns or presidents of the following nations: Argentine Republic, Belgium, France, Germany, Great Britain, Spain, Switzerland, and the United States of America. The first of these selected by lottery shall be the arbitrator, and if he should not accept, it shall be the second, and so on successively.

The nomination of arbitrator having been made and accepted the two parties shall be summoned by him, a term of six months being fixed, within which period they shall meet by means of their representatives, who shall be duly authorized to explain and defend their cause, and to present the documents in support thereof. The said citation may be made through a diplomatic or consular agent, of the arbitrator, or through such an officer of any other friendly nation.

If either of the parties should not come forward with the proofs and claims within the term fixed, no matter for what reason, the arbitrator, nevertheless, shall proceed to investigate the matters submitted, taking into consideration the antecedents supplied by the two or by one of the parties, and without further formality shall pronounce his award, which from the date of the notification in proper form, shall have the force and validity of an obligatory and irrevocable treaty between both contracting parties, who shall make no appeal against the arbitrator's decision, and shall fulfil it faithfully and exactly.

ARTICLE IV

The two high contracting powers shall accept as the principles of arbitration those of the treaty signed at Washington, April 28, 1890, by the plenipotentiaries of the Republics of Guatemala and Salvador, and the United States, and Spanish America, in the following form:

1. Arbitration is obligatory in all questions of diplomatic and consular privileges, limits, territories, indemnifications, and navigation dues; and the validity, interpretation, and fulfilment of treaties;
2. Arbitration is equally obligatory, with the exception indicated in the following paragraph, in all other questions not enumerated in the foregoing paragraph, no matter what the cause, nature or object;
3. There shall be excepted from the ruling of the preceding paragraph, only such questions as, in the exclusive judgment of each of the contracting nations, may compromise its own independence.

In this case the arbitration shall be voluntary on the part of said nation, but obligatory on the part of the other.

ARTICLE V

If causes of disagreement should arise between other states of Central America or between one of them and a foreign nation, the contracting powers, by mutual accord, or each by itself shall offer them its mediation and good offices in a conciliatory and friendly manner in order to preserve or reestablish the general harmony of Central America.

No. 134

MEXICO—GUATEMALA

*Convention providing for arbitration in connection with the settlement of boundary disputes.—Signed at the City of Mexico, April 1, 1895*¹

The undersigned being duly empowered, after the correspondence which they have exchanged and the conferences they have held with the view of arranging in a pacific manner, honorable alike for Guatemala and Mexico, the difficulties that have arisen between the two countries because of the exercise of acts of sovereignty within the territory extending to the west of the River Lacantum, have agreed to the following articles:

ARTICLE I

Guatemala declares, as it has already done previously, that under the conviction of making use of its rights, it has exercised acts of sovereignty within the territory extending to the west of the River Lacantum, and therefore it has not been its intention to offend Mexico by so doing.

ARTICLE II

Notwithstanding this, for the sake of a good understanding, the Government of Guatemala agrees, from a sense of justice, to indemnify those who were injured by its agents, for the value of the property occupied or destroyed, and for the damages that may have been directly caused to them by such occupation or destruction. An

¹ English: *British and Foreign State Papers*, vol. LXXXVII, p. 528.

Spanish: *Tratados y Convenciones Concluidos y Ratificados por Mexico*, vol. II (1896), p. 684. Ratifications exchanged at Mexico City, May 15, 1895.

In the version of this treaty printed in Tejada, *Tratados de Guatemala (Derecho Internacional Guatemalteco)*, vol. II (1912), p. 464, Article VI appears as a second paragraph of Article V, and Article VII is numbered VI.

arbitrator, nominated by common consent, shall fix the amount of these indemnities.

ARTICLE III

The Government of Mexico desists from its claim relative to the indemnification for the expenses it has incurred in the mobilization of troops and other warlike preparations on account of the occupation of the hunting grounds to the west of the River Lacantum, by agents of the Guatemalan government; as also from the demand No. 4, in its note of the thirtieth of November of last year, as there is no longer any reason for it.¹

ARTICLE IV

Guatemala consents that Mexico may at once occupy the territory that extends to the west of the rivers Chixoy and Usumacinta, and Mexico on its side agrees that the true meaning of the treaty of boundaries of the twenty-seventh of September, 1882, in accordance with better data, is, that for the line of division between the two countries, in respect to the region comprised between the rivers Chixoy and La Pasion, there shall be definitely fixed the parallel of latitude which, as set forth in said treaty, passes through a point at four kilometers beyond the mountain of Ixbul, thence in an easterly direction until it strikes the River Chixoy, where it will terminate, according to Guatemala's contention; following the middle line of the deepest channel of this last named river, and afterwards of the Usumacinta, up to the parallel situated at twenty-five kilometers to the south of Tenosique, in Tabasco, measured from the public square of that town.

ARTICLE V

Both parties accept the average of the differences in the remaining lines already made by the respective boundary commissions, that is, from the intersection of the Usumacinta with the second of the previously mentioned parallels, as the dividing line is described in the treaty, provided that such differences do not exceed 200 meters. In the contrary case the lines shall be rectified by common consent by the scientific commissions appointed in conformity with Article IV of the same treaty. If these commissions should not come to an agreement, the dispute shall be submitted to a qualified arbitrator.

¹Which refers to the separation of Mr. Miller Rock from the Guatemalan boundary commission.

ARTICLE VI

The geographical positions of the rivers Chixoy and Usumacinta shall be located in the following sense: that of the Chixoy from its intersection with the first of the parallels referred to in Article IV of the present convention, up to the point where it unites with the River "de la Pasion" to form the Usumacinta; and that of this latter river from that point until it strikes the second of said parallels; the landmarks that may be wanting also being set up: the whole in accordance with the arrangement entered into between Señores Don José Fernandez and Don Manuel Herrera on the fourteenth of September, one thousand eight hundred and eighty-three.

ARTICLE VII

The present convention shall be submitted for approbation to the Senate of the United States of Mexico and to the National Legislative Assembly of the Republic of Guatemala, without prejudice to its being published at once in the official organs of both governments. The exchange of ratifications shall take place in Mexico before the thirty-first of May next.

Executed and signed in duplicate in the city of Mexico, this first day of April, one thousand eight hundred and ninety-five.
[Here follow signatures.]

No. 135

COSTA RICA—GUATEMALA

Provision for general arbitration in a general treaty.—Signed at Guatemala, May 15, 1895¹

ARTICLE I

There shall be peace and sincere friendship between the Republics of Costa Rica and Guatemala.

If unfortunately, any difference should arise between them, they shall endeavor to terminate it in a friendly and brotherly manner; but should the settlement not be attained, they shall be obliged to submit the dispute to arbitration.

¹ Spanish: *Tratados de Costa Rica*, 1907, p. 117.

Ratifications exchanged at San José, July 11, 1896. Wiesse, *Tratados de Arbitramiento*, p. 132, states that the ratifications were exchanged July 11, 1890, which is plainly impossible.

The designation of the arbitrator shall be made by a special agreement, wherein shall be set forth the matters in question and the procedure to be followed in the arbitration.

And in order that the appointment of the arbitrator may never be an obstacle in the fulfilment of this pact, it is stipulated that if within the term of two months after the publication by one of the contending governments in its official journal of the note demanding from the other the election of the arbitrator, they should not come to an agreement as to the designation thereof, they shall proceed to draw by lot from among the Presidents of the United States of North America, of the Republic of Chile, and of the Argentine Republic the one who is to discharge the duties of arbitrator.

The first of those so drawn shall be the arbitrator. Should he not accept, he shall be replaced by the second, and if the latter should not be willing to discharge the office, the third shall become the arbitrator.

The arbitrator shall take cognizance of the matter submitted to him, and shall decide it either at the request of both parties or of either of them, and his award shall be unappealable.

ARTICLE II

Costa Rica and Guatemala declare that they recognize the advisability of a voluntary and pacific union and even the fusion of the republics of Central America; but they consider any attempt to bring about that union or fusion by the force of arms as contrary to international law.

No. 136

BOLIVIA—CHILE

*Provision for possible arbitration in connection with the settlement of boundary disputes, in a treaty of peace and friendship.—Signed at Santiago, May 18, 1895*¹

ARTICLE IV

Should any difference arise with reference to the boundary line between the two countries, there shall be appointed by the high contracting parties a committee of engineers to proceed to the

¹ English: *British and Foreign State Papers*, vol. LXXXVIII, p. 756.

Spanish: *Tratados de Chile*, vol. III, p. 285.

Ratifications exchanged at Santiago, April 30, 1896.

demarcation of the frontier line, determined by the points enumerated in Article I of the present treaty. In a like manner they shall proceed to reestablish the landmarks which exist, or to fix those that may be necessary on the traditional boundary between the ancient Department, at present Chilean province of Tarapaca, and the Republic of Bolivia. If unfortunately there should occur between the engineers charged with the demarcation any disagreement which can not be settled by the direct action of the governments, the question shall be submitted to the decision of a friendly power.

No. 137

COSTA RICA—SALVADOR

*Provision for general arbitration in a general treaty.—Signed at San Salvador, June 12, 1895*¹

ARTICLE I

There shall be peace and sincere friendship between the Republics of Costa Rica and Salvador.

If, unfortunately, any difference should arise between them, they shall endeavor to terminate it in a friendly and brotherly manner; but should this settlement be not attained, they shall necessarily and unavoidably adopt the means of arbitration to put an end to the disagreement.

The designation of the arbiter shall be made by special agreement wherein shall be set forth the matter in question and the procedure to be followed in the arbitration.

And in order that the appointment of the arbitrator may never be an obstacle to the fulfilment of this pact, it is stipulated that if within the term of two months after the publication by one of the contending governments in its official journal of the note demanding from the other the election of the arbitrator, they should not come to an agreement as to the designation thereof, they shall proceed to draw by lot from among the Presidents of the United States of North America, the Republic of Chile, and the Argentine Republic the one who is to discharge the duties of arbitrator.

The first of those so drawn shall be the arbitrator; should he not accept, he shall be replaced by the second and in case the latter

¹ Spanish: *Tratados de Costa Rica*, 1907, p. 193.

Ratifications exchanged at San José, July 30, 1896.

should not be willing to undertake the office, the third shall become arbitrator.

The arbitrator shall take cognizance of the matter submitted to him, and shall decide it either at the request of both parties or of either one of them, and his award shall be unappealable.

No. 138

HONDURAS—NICARAGUA—SALVADOR

Provisions for arbitration in certain cases, contained in a treaty of union.
—Signed at Amapala, June 20, 1895¹

ARTICLE IV

The principal attributes of the Diet shall be to preserve the greatest harmony with all the nations with whom the signatory republics maintain friendly relations, entering for that purpose into such treaties, conventions, or compacts as may conduce to that end.

In every treaty of friendship which the Diet may celebrate, there shall be expressly inserted the clause that all questions which may arise shall be decided invariably and without exception by means of arbitration.

ARTICLE VII

In case of its not being possible for the Diet to settle the question pending in an amicable manner, nor to procure that it be submitted to arbitration, it shall make a report to all the governments, so that, in accordance with what the majority may determine, it shall according to circumstances accept or declare war.

ARTICLE VIII

If unfortunately a question should arise between the signatory governments, the Diet shall constitute itself a tribunal of arbitration,

¹ English: *British and Foreign State Papers*, vol. xcii, p. 227.

Spanish: Wiesse, *Tratados de Arbitramento*, p. 133.

Ratifications exchanged at San Salvador, September 15, 1896.

The purpose of this convention was the formation of the so called Greater Republic of Central America, the independence and autonomy of the signatory countries being left intact. On June 15, 1897, this newly created state contracted a new treaty with the other two Central American Republics, Guatemala and Costa Rica, which treaty, amended by a decree of July 14, 1897, established the Central American Union, and gave place to the constitution of Managua of August 27, 1898. But all of these public instruments were destroyed by Salvador's disavowal of the Amapala agreement in a decree of November 25, 1898; and the five former republics returned to their separate existence. See Wiesse, *op. cit.*, p. 135.

in order to decide the difficulty in view of the proofs and pleadings which the governments concerned may present to it.

But if any one of these should not conform to the award, they shall be obliged to nominate by common consent an arbitrator, who shall pronounce a final decision in view only of the antecedents and of the resolution of the Diet.

In case they can not come to an agreement as to the appointment of an arbitrator, he shall be nominated by the Diet, and chosen from amongst the Presidents of the remaining American republics.

ARTICLE IX

The principal object of the present convention being to preserve peace and the closest harmony between the contracting republics as the most efficacious means of realizing the union, their respective governments pledge themselves in the most formal and solemn manner to comply with the stipulations contained in the previous article within the limits on which the parties may agree, or which in default the Diet may establish.

No. 139

DOMINICAN REPUBLIC—HAITI

*Convention for the arbitration of a boundary dispute.—Signed at Santo Domingo, July 3, 1895*¹

The President of the Dominican Republic, specially authorized by the plebiscite of June 1 and 2, 1895;

And the President of the Republic of Haiti, in the exercise of his constitutional attributes,

In consideration of Article IV of the treaty of November 9, 1874, now in force, reading as follows:

ARTICLE IV. The high contracting parties formally obligate themselves to establish the boundary lines which separate their actual possessions, in the manner most in harmony with equity and the mutual interests of the two peoples. This obligation shall be the subject of a special treaty; and for this purpose commissioners shall be appointed by the two governments as soon as possible.

¹ Spanish: *Arbitraje du très Saint-Père le Pape: Mémoire de la République d'Haiti*, 1896.

French: de Martens, *Nouveau recueil général de traites*, 2d series, vol. XXIII, p. 79.

No facts are at hand concerning the date of the exchange of ratifications; but that ratifications were effected and exchanged seems certain since the arbitration was carried out, as shown in the source cited above, from which the Spanish text was copied.

In consideration of the contrary interpretation given to the said Article IV, by the two governments;

On the one hand, the Haitian Government affirming that the *uti possidetis* of 1874, is the principle which has been conventionally accepted and established for the demarcation of our boundary lines; that, in fact, the term *actual possessions* means the possessions occupied at the time of the signing of the treaty;

On the other hand, the Dominican Government affirming that the *uti possidetis* of 1874 is not conventionally accepted nor established in the said Article IV, because, in fact, by *actual possessions*, nothing else can be meant than what, in law, should belong to each of the two peoples, that is to say, the *uti possidetis* to which the clause of Article IV can reasonably refer, concerns only the possessions determined by the *statu quo post bellum* of 1856;

Desiring to settle in a friendly manner the difficulty existing between the two governments with regard to the aforementioned contrary interpretation,

Have resolved to submit to arbitration the difficulty in question and, for the purpose of concluding a convention to that effect, have appointed as their respective plenipotentiaries:

The President of the Dominican Republic, Don Enrique Henriquez, Minister of Foreign Relations of the Dominican Republic;

The President of the Republic of Haiti, Don Dalbémard, Jean-Joseph, Envoy Extraordinary and Minister Plenipotentiary of Haiti to Santo Domingo;

Who, after having exchanged their full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

The difficulty which has arisen between the Dominican Government and that of Haiti regarding the interpretation of Article IV of the treaty of 1874, shall be submitted to the arbitration of His Holiness the Pope, whose paternal and impartial kindness shall be requested to decide whether the said Article IV of the treaty of 1874 has the meaning, and confers the right which the Haitian Government supposes or that which the Dominican Government supposes.

ARTICLE II

Each of the high contracting parties shall designate the special agent or the agents who shall be charged with submitting the notes

and necessary explanations for the consideration of the question, as it is set forth in the preceding article.

ARTICLE III

The memorial of each of the two Parties, accompanied by the supporting documents which shall be attached thereto, shall be submitted, in duplicate, to the Sovereign Pontiff and to the agent of the other party as soon as possible, after the Holy Father shall have deigned to consent to become arbitrator, but within a space of time not exceeding two months, reckoned from the day of the exchange of the ratifications of the present convention.

ARTICLE IV

Within the space of one month after the mutual remittance of the memoir, each party may, in the same manner, forward a counter-memoir in duplicate to the Sovereign Pontiff and to the agent of the other party, and, if in place, additional documents in answer to the memorial and documents thus presented by the other party.

ARTICLE V

After the written decision shall have been delivered in duplicate, dated and signed, which the Holy Father shall be requested to do, one copy thereof shall be handed to the agent of the Dominican Republic for his government, and the other shall be handed to the agent of Haiti for his government.

ARTICLE VI

Each government shall defray the expenses incurred by its own agent and provide the costs for preparing and presenting its case before the arbitral tribunal. All other possible expenditures relating to the arbitration shall be borne in equal shares by the two governments.

ARTICLE VII

The two high contracting parties obligate themselves to consider the result of the arbitration as the complete and definitive solution of the difficulty in regard to the interpretation above indicated of Article IV of the treaty of 1874.

ARTICLE VIII

If the matter is adjudicated in favor of the Haitian interpretation of Article IV of the treaty, the Dominican Government obligates

itself to trace the definitive boundary line in such manner that all the territory occupied by Haiti in 1874 shall remain in the latter's possession.

ARTICLE IX

If the arbitrator decides the question according to the interpretation maintained by the Dominican Government, then the latter, considering that for many years Haiti has always occupied and populated the territory in litigation, and that the Dominican Republic would today be unable to indemnify the Haitian proprietors for the properties situated and established in the said territory, as well as unable to occupy and populate the territory with Dominican families, obligates itself to come to an agreement with the Haitian Government, having recourse for that purpose to the express authorization which the sovereign people has conferred upon it, to leave Haiti in possession, with perfect right, of the territory that it (the Dominican Republic) occupied in 1874, on the payment of a just pecuniary compensation.

ARTICLE X

The present treaty shall be submitted to the approval and sanction of the respective competent authorities, and the ratifications shall be exchanged at Santo Domingo within the space of two months, reckoned from this date, or sooner if possible.

In faith of which the plenipotentiaries of the contracting parties have signed the present convention, and affixed their respective seals thereto.

Done in original duplicate, in the French and Spanish languages, in the city of Santo Domingo, capital of the Dominican Republic, July 3, 1895.

[Here follow signatures.]

No. 140

BOLIVIA—PERU

*Protocol for the arbitration of the question of Peru's obligation to salute the Bolivian flag.—Signed at Lima, August 26, 1895*¹

The undersigned, Melchor Terrazas, Envoy Extraordinary and Minister Plenipotentiary of Bolivia, and Manuel Candamo, Minister

¹ Spanish: Aranda, *Tratados del Perú*, vol. xiv, p. 557.

The instrument makes no provision for ratification or the exchange of ratifications. See supplementary protocol of September 7, 1895, No. 141, *post*, p. 240.

of Foreign Relations of Peru, having met in the Ministry of Foreign Relations in virtue of the good offices interposed by the honorable diplomatic representatives of the Holy See, France, Colombia (Dr. Don Anibal Gabindo) and Italy to settle the differences lately arisen between the two countries, have agreed upon the following:

ARTICLE I

To submit to the arbitral decision of a South American government the following question: Were the regrettable acts committed by Peru in 1890 of the same nature and gravity as the regrettable acts committed by Bolivia during the last Peruvian civil war so as to require a like salute to the flag?

ARTICLE II

Peru shall make good the damages and losses caused by the acts recorded in the claim formulated by the legation of Bolivia in its note of March 12 of the present year which may be duly proved.

ARTICLE III

The minister plenipotentiary of Peru to Bolivia shall express to the government of that republic, in a special audience, the regret of the Peruvian Government for what has taken place, and the purpose of that Government to preserve unalterable the good relations between the two countries.

ARTICLE IV

The matter shall be taken before a tribunal, or the pending lawsuits against the perpetrators of the outrages upon which the Bolivian claims are founded shall be continued for their punishment, or for their dismissal, if they should still exercise official functions.

In faith of which, they have signed the present protocol, in duplicate, and affixed their respective seals thereto at Lima on the twenty-sixth of August, one thousand eight hundred and ninety-five.
[Here follow signatures.]

No. 141

BOLIVIA—PERU

*Protocol of an agreement for selecting an arbiter to decide whether Peru should salute the Bolivian flag.—Signed at Lima, September 7, 1895*¹

Having met in the office of the Ministry of Foreign Relations, the undersigned, Melchor Terrazas, Envoy Extraordinary and Minister Plenipotentiary of Bolivia, and Manuel Candamo, Minister of Foreign Relations, to designate the person of the arbiter and other conditions of the arbitration established in the protocol of August twenty-six ultimo, have agreed upon the following articles:

ARTICLE I

The most excellent Government of the United States of Brazil is designated arbiter, and if it should not accept the charge entrusted to its high honor, then, as soon as its refusal shall be known, there shall be substituted in its place that of the Republic of Colombia upon the same basis and with the same instructions.

ARTICLE II

When the present agreement shall have been ratified by the two interested governments, they shall, within the following thirty days, send to the arbiter their respective rogatory letters, transmitting to him at the same time in printed form and duly legalized in both chancelries: First, the claims of Bolivia together with the evidence on which they are based; Second, the relative contentions on the part of Peru, and the subsequent diplomatic discussion to which they have given occasion, up to and including July 10, ultimo; Third, the judicial record of the claim pleaded in the year 1890, by the Minister Dr. don Manuel Maria Rivas, before the Government

¹ Spanish: Aranda, *Tratados del Perú*, vol. xiv, p. 558.

Supplementary to the protocol of August 26, 1895, No. 140, *ante*, p. 238.

The customary provision for ratification and exchange of ratifications is not included in the instrument; but the second article implies that ratification was expected. No statement has been found concerning ratification or exchange; but in the *Memoria de Relaciones Exteriores de Bolivia*, 1896, p. 31, there is a statement that the controversy had been satisfactorily settled, and the text is quoted of the letter of the President of Bolivia to the President of Brazil, which according to the article mentioned was not to be sent until after the document was ratified. There is also a statement that the Bolivian diplomatic agent at Rio de Janeiro had previously asked if the President of Brazil would accept the office of arbiter and had received an affirmative reply.

of Bolivia, together with the statement of the reparation, which terminated the case.

ARTICLE III

The decision shall be rendered within the hundred days following the acceptance of the arbitration, unless the arbiter deems it necessary, reasonably to extend the period indicated.

ARTICLE IV

If the decision should be in favor of the claim of the Government of Bolivia, then the Government of Peru shall immediately perform the military salute to the flag of that nation.

ARTICLE V

The most excellent arbiter shall communicate its decision to the contesting governments, or to their representatives if any should be accredited to it, for execution.

In faith of which, they have signed the present agreement, in duplicate, and affixed their respective seals thereto, at Lima, on the seventh day of the month of September, one thousand eight hundred and ninety-five.

[Here follow signatures.]

No. 142

COSTA RICA—HONDURAS

*Provision for general arbitration in a general treaty.—Signed at San José, September 28, 1895*¹

ARTICLE II

If, unfortunately, any misunderstanding should occur between them, they shall endeavor to terminate it in a friendly and brotherly manner, that government believing itself aggrieved laying before the other a statement of the offenses or damages causing the complaint, accompanied by the corresponding proofs.

Should the government on whom the demand has been made be of opinion that the reparation or the satisfaction asked for is not due, the dispute shall unavoidably be submitted to the arbitration of any one of the governments of Central America, or of the others of the American continent.

The appointment of the arbitrators shall be made by an agreement

¹ Spanish: *Tratados Vigentes de Costa Rica* (1907), p. 125.

Ratifications exchanged at San José, September 3, 1896.

of the contracting parties, at the latest, within sixty days after the government believing itself aggrieved publishes in its official journal the note demanding from the other, said appointment. After the lapse of that term without having come to an agreement as to the designation of the arbitrator, whatever be the cause that may have prevented it, the President of the United States of North America, the President of the United States of Mexico, the President of the Republic of Chile, or the President of the Argentine Republic, shall be considered as arbitrators, and shall, in the order of their designation, enter upon the discharge of their arbitral duties; it being understood that each of these shall substitute the preceding one in case of non-acceptance or of resignation.

The arbitrator shall take cognizance of the matter submitted to him and shall decide it, either at the request of both parties, or of any one of them, and his decision shall be unappealable.

No. 143

COSTA RICA—NICARAGUA

*Convention for the arbitration of disputes arising in the demarcation of the boundary.—Signed at San Salvador, March 27, 1896*¹

The mediation of the Government of Salvador having been accepted by their Excellencies the Presidents of Costa Rica and Nicaragua to settle the demarcation of the boundary line of the two republics, they have appointed, respectively, as envoys extraordinary and ministers plenipotentiary, their Excellencies Attorney Don Leonidas Pacheco, and Don Manuel C. Matus, who, after various conferences held in the presence of the Minister of Foreign Affairs, Dr. Don Jacinto Castellanos, especially authorized to represent the Government of Salvador, their full powers being in good and due form, and with the assistance of His Excellency the President of the republic, General Don Rafael A. Gutiérrez, who has had the courtesy to participate, in order to give greater solemnity to the act, have concluded the following convention.

ARTICLE I

Each of the contracting governments obligates itself to appoint a commission of two engineers or land surveyors for the purpose of

¹ Spanish: *Tratados Vigentes de Costa Rica* (1907), p. 183.
Ratifications exchanged at San José, December 17, 1896.

justly determining and demarcating the boundary line between the republics of Costa Rica and Nicaragua, as specified in the treaty of April 15, 1858 and in the arbitral decision of Mr. Grover Cleveland, the President of the United States of North America.

ARTICLE II

The commissions created by virtue of the preceding article shall be completed by one engineer, whose appointment shall be requested by both parties of the President of the United States of America, and whose functions shall be confined to the following: when in the course of operations a disagreement shall arise between the commissions of Costa Rica and Nicaragua, the respective matter or matters shall be referred to the judgment of the engineer named by the President of the United States of America. The engineer shall have absolute power to settle whatever kind of difficulties may arise, and in conformity with his decision the operations herein treated of shall be absolutely carried out.

ARTICLE III

Within the three months following the exchange of the present convention, after having been duly ratified by the respective congresses, the representatives at Washington of the two contracting governments shall proceed in common accord to request the President of the United States of America to accede to the naming of the engineer referred to above and to confirm his appointment. If by reason of there being no representative of either the one or the other government at Washington, or for any other reason whatever this matter has not been jointly attended to within the period specified, then when this period has expired, either the one or the other of the representatives of Costa Rica or Nicaragua at Washington shall have the right separately to attend to such matter, which shall have the same effect as though it had been attended to by both parties.

ARTICLE IV

When the appointment of the North American engineer is confirmed, and within the three months following the date on which this appointment is made, the work of locating and marking off the boundary line shall be begun, which should be completed within the twenty months following the date on which the work is begun. The commissions of the contracting parties shall meet at San Juan del Norte, within the periods specified to that end, and begin their work

at the extreme end of the boundary line, which, according to the treaty and decision before referred to, starts from the Atlantic Coast.

ARTICLE V

The contracting parties agree that, if for any reason whatever either of the commissions of the republics of Costa Rica or Nicaragua fails to begin the work in the place designated, the work shall be begun by the commission of the other republic that may be present, with participation therein by the engineer of the North American Government, and the work thus done shall be valid and definitive, and no exception entered thereto on the part of the republic which may have neglected to send its commissioners. In like manner, the work shall be proceeded with if any or all of the commissioners of either of the contracting republics shall absent themselves after the work is begun, or refuse to carry out this work in the form specified in the decision of the engineer appointed by the President of the United States.

ARTICLE VI

The contracting parties agree that the period specified for the completion of the demarcation is not peremptory, and for that reason, whatever is done after the expiration thereof, shall be valid, whether the reason be that the former period shall have been insufficient for the execution of all the operations, or that the commissioners of Costa Rica and Nicaragua among themselves and in accord with the North American engineer shall have agreed to suspend the operations temporarily and there should not be time enough left to conclude the operations within the period determined.

ARTICLE VII

In the case of temporary suspension of the work of demarcation, the part thereof performed up to that time shall be held to be final and terminated, and the limits in the respective part as materially fixed, even if for unexpected and insuperable circumstances, said suspension were to continue indefinitely.

ARTICLE VIII

The record of the acts of the operations which is to be kept in triplicate, and which the commissioners shall duly sign and seal, shall without the necessity of approval or of any other formality on

the part of the signatory republics, be the title of the definitive demarcation of their limits.

ARTICLE IX

The acts to which the preceding article refers shall be recorded in the following manner; at the conclusion of each day's work, a minute and detailed statement shall be entered of all the work done, specifying the point of departure of the operations of the day, the kind of landmarks constructed or adopted, the distance between them, the direction of the line which defines the common boundary, etc. In the case of disagreement between the commissions of Costa Rica and Nicaragua with regard to any matter, there shall be recorded in the act the respective question or questions debated as well as the decision of the North American engineer. The acts shall be drawn up in triplicate: the Costa Rica commission shall keep one of the copies, the commission of Nicaragua another, and the North American engineer the third for deposition, at the conclusion of the operations, in the Department of State at Washington.

ARTICLE X

The expenses of the journey and sojourn of the North American engineer, as well as the suitable stipends for all the time during which he exercises his functions, shall be paid in equal shares by the two signatory republics.

ARTICLE XI

The contracting parties pledge themselves to secure the ratification of this convention by their respective congresses within six months reckoned from the date of this convention, although to do this it might be necessary to convene those high bodies into extra session, and the subsequent exchange of ratifications shall take place within the month following the date on which the last of the approvals indicated is obtained, at San José de Costa Rica or at Managua.

ARTICLE XII

The passing of the periods above referred to, without the execution of the acts for which they have been stipulated, does not cause this convention to lapse, and it shall devolve upon the republic which has not done so already to supply the omission within the shortest time possible.

In faith of which, they sign and seal the present convention in duplicate, in the city of San Salvador, on the twenty-seventh day of the month of March, of the year one thousand eight hundred and ninety-six.

[Here follow signatures.]

No. 144

ARGENTINA—CHILE

*Agreement for submitting to arbitration the question of the boundary.—
Signed at Santiago, April 17, 1896*¹

Señor Adolfo Guerrero, Minister for Foreign Affairs, and Señor Norberto Quirno Costa, Envoy Extraordinary and Minister Plenipotentiary of the Argentine Government in Chile, having met in the Office of the Ministry for Foreign Affairs in the city of Santiago of Chile on the seventeenth day of April, 1896, declared that the Governments of the Republic of Chile and of the Argentine Republic being desirous of facilitating the loyal execution of the existing treaties, which fix a definitive frontier between the two countries, of reestablishing confidence in peace and of avoiding every cause of conflict, pursuing always the aim of obtaining a solution by direct arrangement without prejudice to the other conciliatory measures which the treaties themselves provide, have arrived at an agreement which contains the following bases:

ARTICLE I

The operations of frontier delimitation between the Republics of Chile and Argentina, which are to be performed in conformity to the treaty of 1881 and to the protocol of 1893 shall extend in the Cordillera of the Andes up to the 23° of south latitude, the dividing line having to pass between the above degree and the latitude of 26° 52' 45'', both governments, and also the Government of Bolivia, which shall be invited thereto, participating in the operation.

¹ English: *British and Foreign State Papers*, vol. LXXXVIII, p. 553.

Spanish: *Memoria de Relaciones Exteriores de Argentina*, 1896, p. 22.

The date of the exchange of ratifications is not at hand. The Argentine Executive gave its approval on April 27, 1896 (see Spanish source, p. 24); and the Chilean Executive approved it on May 7, 1896 (see *Tratados de Chile*, vol. III, p. 320). For the arbitral award, under the agreement of King Edward VII, dated November 20, 1902, see *Tratados de Argentina*, vol. x, p. 35.

For the earlier arbitration arrangements leading to this, see Nos. 24, 82, and 113, *ante*, pp. 33, 122 and 179, and see also No. 149 *post*, p. 256.

ARTICLE II

Should disagreements occur between the experts in fixing in the Cordillera of the Andes the dividing boundary marks to the south of the $26^{\circ} 52' 45''$, and should they be unable to settle the points in dispute by agreement between the two governments, they will be submitted for the adjudication of Her Britannic Majesty's Government, whom the contracting parties now appoint as arbitrator to apply strictly in such cases the provisions of the above treaty and protocol, after previous examination of the locality by a commission to be named by the arbitrator.

ARTICLE III

The experts shall proceed to study the district in the region adjoining the 52d degree of latitude south, referred to in the last part of Article II of the protocol of 1893, and they shall propose the frontier line to be adopted there in the event of the case foreseen in the above-mentioned stipulation. Should there occur divergence of views in fixing this frontier line, it shall be also settled by the arbitrator designated in the agreements.

ARTICLE IV

Sixty days after the occurrence of a disagreement in the cases referred to in the above bases, both governments by common agreement, or either of them separately, shall be able to solicit the intervention of the arbitrator.

ARTICLE V

Both governments agree that the location of the landmark of San Francisco, between the 26th and 27th degrees of latitude south, shall not be taken into consideration as a basis or obligatory precedent in fixing the frontier line in that region, the operations and works effected there on various occasions being considered as studies towards the definitive settlement of the line without prejudice to the other studies which the experts may wish to make.

ARTICLE VI

The experts, on renewing their work next season, shall undertake the operations and studies referred to in Articles I and III of this agreement.

ARTICLE VII

Both governments undertake to ratify the third agreement of the act of the sixth of September, 1895, for the continuance of the work

of demarcation in the event of disputes in order that the work as desired by the contracting parties may never be suspended.

ARTICLE VIII

Within the period of sixty days from the signature of the present agreement, the diplomatic representatives of the Chilean and Argentine Republics accredited to Her Britannic Majesty's Government shall conjointly solicit from it, the acceptance of the charge of arbitrator conferred upon them, for which purpose the respective governments will issue the necessary instructions.

ARTICLE IX

The Governments of the Republics of Chile and Argentina will defray in equal shares the expenses incurred in the fulfilment of this agreement.

The undersigned ministers, in the name of their respective governments and duly authorized, sign the present agreement in two copies, and affix their seals.

[Here follow signatures.]

No. 145

COLOMBIA—COSTA RICA

*Convention for submitting to arbitration the question of the boundary.—
Signed at Bogotá, November 4, 1896*¹

The Republic of Colombia and the Republic of Costa Rica, desiring to put an end to the boundary question now pending between them, and to arrive at a definite territorial adjustment, have decided to put into effect, with the additions and modifications here below expressed, the arbitration conventions entered into in San José de Costa Rica the twenty-fifth of December, 1880, through their plenipotentiaries, Dr. José Maria Quijano Otero and José Maria Castro, and in Paris the twentieth of January, 1886, through their plenipotentiaries Dr. Carlos Holguin and Attorney Don Leon Fernandez; and to this end have named as plenipotentiaries: the Government of Colombia, General Don Jorge Holguin, Minister for

¹ English: *British and Foreign State Papers*, vol xcii, p. 1036.

Spanish: *Tratados Vigentes de Costa Rica* (1907), p. 25.

Ratifications exchanged at Washington, May 3, 1897.

Amending and reviving the arbitration conventions of December 25, 1880, and January 20, 1886, Nos. 81 and 102, *ante*, pp. 120 and 155.

Foreign Affairs; and the Government of Costa Rica, M. Ascencion Esquivel, Envoy Extraordinary and Minister Plenipotentiary to Colombia; who, after having shown their full powers, found to be in due form, have agreed upon the following articles:

ARTICLE I

The above-mentioned arbitration conventions are hereby declared in force, and they shall be observed and executed with the modifications expressed in the following articles:

ARTICLE II

The high contracting parties name as arbitrator His Excellency the President of the French Republic, or, should he be unable to accept, the President of the United States of Mexico, and in case that he should also refuse to accept, the President of the Swiss Confederation, in all of whom the high contracting parties without any difference have the most unlimited confidence. The high contracting parties hereby state that, if in declaring the validity of the arbitration conventions, they have not chosen the Spanish Government arbitrator, which had previously accepted this office, it is because Colombia hesitates to ask so many continuous services from the said government, having but recently signed with Ecuador and Peru a treaty in regard to frontiers wherein His Catholic Majesty is named arbitrator, and this after the laborious question of the Colombian-Venezuelan frontier question.

ARTICLE III

The acceptance of the first arbitrator on the list shall be requested within three months after the exchange of the ratifications of the present agreement, and if on account of the refusal of one of the arbitrators it should be necessary to apply to the next in order, the request to accept shall be made within three months after the day on which the refusal has been announced to the parties.

Should the three months elapse without one of the parties having requested the acceptance, the party present is hereby authorized to request it, and the acceptance shall be as valid as if the two parties had solicited it.

ARTICLE IV

The arbitration court shall be governed by the following rules:
Within the limit of eighteen months, counted from the time when the acceptance of the arbitrator shall have been announced to the

high contracting parties, they shall present to him their pleadings and documents.

In order that the acceptance may be held to have been duly announced to the parties, so that they can not allege ignorance of it, it is sufficient that it should be published in the official gazette of the country of the arbitrator.

The arbitrator shall communicate to the representative of each government a copy of the pleadings of the other within three months after they have been presented, in order that he may refute them, during the following six months.

The decision of the arbitrator, to be valid, must be given within a year, counting from the date upon which the time for the reply to the pleadings shall have elapsed, whether they have or have not been presented.

The arbitrator may delegate his authority, provided that he take part, personally, in rendering the final decision.

The decision of the arbitrator, whatever it may be, shall be considered as a perfect and obligatory treaty between the high contracting parties, and shall be final. Both parties bind themselves to comply faithfully with the decision of the arbitrator, and renounce all rights of appeal, pledging thereto their national honor.

ARTICLE V

Articles II and IV of the present agreement are substituted for Articles II to VI inclusive, of the agreement of the twenty-fifth of December, 1880, and for Articles I and IV of the agreement of the twentieth of January, 1886. Excepting these modifications and expressed conditions, which are binding, the arbitral agreements referred to shall again become valid and in force.

ARTICLE VI

The present convention shall be submitted to the approval of the Congress of Colombia, during its present sessions, and to the Congress of Costa Rica during its next sessions, and the ratifications shall be exchanged in Panama, San José de Costa Rica, or Washington, within the shortest possible time.

In faith whereof the aforesaid plenipotentiaries sign and seal the present convention in Bogotá, the fourth of November, one thousand eight hundred and ninety-six.

[Here follow signatures.]

No. 146

MEXICO—UNITED STATES

*Protocol of an agreement for arbitrating the claims of Oberlander and Messenger against the Mexican Government.—Signed at Washington, March 2, 1897*¹

Protocol of an agreement between the Secretary of State of the United States and the Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico for submission to an arbitrator of the claims of Charles Oberlander and Barbara M. Messenger.

The United States of America and the United States of Mexico, through their representatives, Richard Olney, Secretary of State of the United States of America, and Matias Romero, Envoy Extraordinary and Minister Plenipotentiary of the United States of Mexico, have agreed upon and signed the following protocol:

Whereas the United States of America, on behalf of Charles Oberlander and Barbara M. Messenger, citizens of the United States of America, have claimed indemnity from the Government of Mexico for injuries alleged to have been done to the said Oberlander and Messenger by Mexican citizens, and whereas the United States of Mexico deny the allegations of fact upon which these claims are based and the right of the United States of America to demand indemnity for either of those parties,—it is therefore agreed between the two governments, with the consent of the said Oberlander and Messenger, given through their respective attorneys of record.

ARTICLE I

That the questions of law and of fact brought into issue between the two governments in respect of these claims shall be referred to the decision of Señor Don Vicente G. Quesada, Minister of the Argentine Republic at Madrid, who is hereby fully authorized thereto as arbitrator.

ARTICLE II

That each government shall submit to the arbitrator, within three months from the day on which both governments shall receive official notice from Señor Don Vicente G. Quesada that he accepts the

¹ English and Spanish: *United States Statutes at Large*, vol. 30, p. 1593.

The instrument makes no provision for ratification or exchange of ratifications. On November 19, 1897, the arbitrator rendered his decision, which denied the obligation of Mexico to make any payment to the claimants.

office of arbitrator by permission of his government, copies of the correspondence, documents and proofs which it has already submitted for the consideration of the other government in respect of the two claims; and that the arbitrator in making his award shall take into consideration only such issues of law and fact as arise upon said correspondence, documents and proofs.

ARTICLE III

That each government may submit with the papers above described an argument setting forth its own views of the two cases; but the arbitrator shall not be authorized or required to hear oral arguments or to call for new evidence: unless, after examining the documents submitted to him, he may deem it necessary to call for evidence or arguments elucidating a particular point not made clear to him.

ARTICLE IV

The arbitrator shall render his decision within six months from the date of the submission to him of the proofs, documents, etc., by both parties. He shall decide on the proofs and arguments submitted to him whether the said Oberlander or the said Messenger is or is not entitled to any indemnification on the part of the Government of Mexico, and in case he shall decide this point affirmatively with respect of both or either of the two claimants he will fix the amount of the indemnity to which each or either is entitled; *Provided*, that the indemnity shall not in either case exceed the sum demanded by each claimant in the papers submitted by each to the United States.

ARTICLE V

Reasonable compensation to the arbitrator, and the other common expenses occasioned by the arbitration shall be paid in equal moieties by the two governments.

ARTICLE VI

Any award made by the arbitrator shall be final and conclusive, and if in favor of the claimants or of either of them and of the contention of the United States of America, the amount so awarded be paid by the Government of Mexico as soon as appropriated by the Mexican Congress, but not later than two years from the date of such award.

Done in duplicate at Washington this second day of March, 1897.
[Here follow signatures.]

No. 147

PERU—UNITED STATES

*Protocol of an agreement to arbitrate the claim of MacCord against the Government of Peru.—Signed at Washington, May 17, 1898*¹

The United States of America and the Republic of Peru, through their Representatives, William R. Day, Secretary of State of the United States of America, and Dr. Don Victor Eguiguren, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Peru, have agreed upon and signed the following protocol:

Whereas, the United States of America, on behalf of Victor H. MacCord, a citizen of the United States of America, has claimed indemnity from the Government of Peru, for injuries inflicted upon him, at Arequipa, Peru, in 1885; it is agreed between the two governments:

I

That the question of the amount of the said indemnity shall be referred to the Right Honorable Sir Samuel Henry Strong, P. C., Chief Justice of the Supreme Court of the Dominion of Canada, who is hereby appointed as arbitrator to hear said cause and to determine the amount of said indemnity.

II

The Government of the United States of America will lay before the arbitrator both the claimant's evidence and that which has been submitted by the Government of Peru. The Government of the United States shall furnish the Peruvian Minister a list thereof.

III

The Peruvian Government, having condescended, as an act of deference to the United States, in excluding from the arbitration the discussion of its liability or irresponsibility, the arbitrator will limit his decision and the award to the following point, that is the only one that is submitted to his decision: to determine, in view of the

¹ English: *United States Treaty Series*, No. 286.

Spanish: *Memoria del Ministerio de Relaciones Exteriores de Perú*, 1898, p. 98.

No provision for ratification or exchange is included in the instrument.

By a supplemental protocol signed June 6, 1898, Article III was amended so that the final date for the submission of evidence to the arbitrator would be August 10, 1898, and the time allowed within which his decision was to be rendered was three months thereafter; and Article IV was changed so that the final date for the submission of arguments or briefs would be October 1, 1898. See English source, p. 1445.

proofs that will be submitted to him, the amount of pecuniary indemnity that will be paid to Mr. Victor H. MacCord for the acts committed against him, in Arequipa, Peru, in 1885. The United States Government having declined to submit any matter in dispute herein to arbitration except the amount of damages to be awarded, the Government of Peru accedes to the proposal to waive its denial of liability and to allow the arbitrator, on the hearing of the case, to award such sum as he may believe MacCord to be entitled to and the amount of which award the Government of Peru undertakes and agrees to pay. The evidence is to be finally submitted to the arbitrator on or before the 1st day of July, 1898, and his decision is to be rendered within two months from the date of its submission.

IV

Each government may furnish to the arbitrator an argument or brief, not later than the tenth day of August, 1898; but the arbitrator need not for that purpose delay his decision.

V

The Government of Peru shall pay the sum fixed by the arbitrator as soon as the Congress of Peru shall authorize the payment; but the time thus allowed shall in no case exceed six months from the day the decision shall be pronounced.

VI

Reasonable compensation to the arbitrator, and the other expenses of said arbitration, are to be paid in equal moieties by both governments.

VII

Any award given by the arbitrator shall be final and conclusive.

Done in duplicate at Washington this seventeenth day of May, 1898.

[Here follow signatures.]

No. 148

COLOMBIA—PERU

*Provision for general arbitration in a treaty of friendship and commerce.—Signed at Bogotá, August 6, 1898*¹

ARTICLE XXX

The two republics agree that, if unfortunately their friendly relations should happen to be interrupted, they will not have recourse to arms until every means of negotiation shall have been exhausted and hope of obtaining due satisfaction by these means lost.

In such case the government which considers itself wronged, after stating its reasons and vainly soliciting a just agreement, shall consign in a manifesto the causes of the dispute and shall present it in the office of foreign affairs of that government to whom the offense is imputed, announcing the intention of submitting the question to the decision of a third, elected from among the five governments which it shall have previously designated for the purpose, if before six months, counting from the day on which the manifesto may have been presented, satisfactory explanations shall not have been made on the point or points in dispute.

The government to whom the offense is imputed must reply within the said period and shall conclude its declaration by choosing on its part one of the five designated governments to serve as arbitrator.

If the offended government should not be satisfied with the explanations of the other, they shall both appeal to the arbitrator, submitting the question, accompanied by the necessary justificatory testimony, to his decision.

If the accused government should elude the proposal of arbitration or the nomination of the arbitrator, the latter shall be chosen by the claimant from among the five governments previously designated.

In general, in all cases of controversy in which the two contracting parties can not agree by diplomatic means, they shall have recourse to the decision of an arbitrator for the pacific and definitive settlement of their differences; and neither one of them can declare war nor authorize acts of reprisal against the other except in the case of

¹ Spanish: *Informe de Relaciones Exteriores de Colombia*, 1898, p. 307.

Ratified by Colombia, December 6, 1898. (*Leyes Colombianas de 1898*, p. 60). Ratified by Peru, October 24, 1903. (*Leyes y Resoluciones del Congreso del Perú de 1903*, p. 90). The date of exchange of ratifications is not at hand.

refusal to submit to the arbitral decision of a friendly government or to fulfil the sentence pronounced by the latter.

No. 149

ARGENTINA—CHILE

*Agreements for the arbitration of a portion of the boundary.—Signed at Santiago, November 2, 1898*¹

Having met in the city of Santiago de Chile, on the second day of the month of November, of the year one thousand eight hundred and ninety-eight, in the office of the Ministry of Foreign Affairs, Señor Don Alberto Blancas, Chargé d'Affaires and Plenipotentiary *ad hoc* of the Argentine Republic, according to telegraphic credentials, which shall be ratified subsequently in the customary form, and Señor Don Juan José Latorre, Minister of Foreign Affairs of the Republic of Chile, having declared that, desirous of reaching an agreement upon all matters that affect or may affect, directly or indirectly, the two countries, thereby establishing in a complete, open, and friendly manner the relations which their mutual glories have imposed since the very moment of their political independence, they have agreed:

First. To appoint a conference in the city of Buenos Aires for the following purposes:

A. To trace the boundary line between 23° and 26° 52' 45" of south latitude, in fulfilment of the first article stipulated in the agreement of the seventeenth of April, of the year one thousand eight hundred and ninety-six, taking into consideration all documents and antecedents referring thereto.

B. To study and plan the settlement of matters interesting the two

¹ Spanish: *Tratados de Argentina*, vol. VII, p. 212.

Ratified by Chile, November 23, 1898. Notes from the Argentine Chargé to the Chilean Foreign Minister dated November 15 and 21 said that telegrams from his government declared it was unnecessary to submit the agreements to the Argentine Congress. See Chile, *Suplemento al Boletín de las Leyes y Decretos de 1898*, pp. 50, 51.

At a conference of November 25 between the negotiators each named the five delegates for his government to the conference provided for in the first of the two agreements of November 2; and they agreed that the first meeting of the conference should be at Buenos Aires on May 1, 1899. They also agreed that if this conference should not at the conclusion of its third session have agreed upon the line, the delegation of each government should then select one of its members who, together with the Minister of the United States to Argentina, should proceed to carry out the second agreement. See *Tratados de Chile*, vol. v, p. 27. For an account of the execution of the agreement see Argentina, *Memoria de Relaciones Exteriores*, 1899, p. xii.

For other arbitration arrangements concerning this boundary dispute see Nos. 24, 82, 113, and 144, *ante*, p. 33, 122, 179, and 246.

countries directly or indirectly, which may be expressly submitted to its deliberation.

Secondly. The conference shall be composed of ten delegates, five of these being designated by the Argentine Republic and five by the Republic of Chile. The designation of delegates that each government may make and the fixing of the initial date for the conference shall form the object of a subsequent act.

Thirdly. The conference shall begin by considering the first point to which the first clause refers. If the delegates reach an agreement on this matter, whether by unanimity or by majority, then there shall be traced definitively the dividing line so agreed upon, and it shall be communicated immediately to the governments, so that with the knowledge of the Government of Bolivia, such dividing landmarks as deemed necessary may be established in the locality along the points of that line. If the delegates do not reach an agreement, they shall so advise their respective governments so that the proceeding established in another act of this same date may be put into effect.

Fourthly. When the matter referred to in the preceding clause shall have been attended to, the conference shall then proceed to the consideration of the other matters referred to in the first clause. The resolutions which the delegates may adopt shall have no obligatory character in so far as the respective governments are concerned; but, when they shall have been communicated to them, it shall then be the duty of said governments to take definitive action thereon.

Fifthly. The conference must bring its labors to an end within ten days from its first session, unless in common accord the governments resolve to extend said period.

Sixthly. If after three sessions have been held, the conference should not have agreed upon the demarcation of the line between 23° and $26^{\circ} 52' 45''$ of south latitude, the demarcation commission to which the act of this same date refers shall then begin to perform its charge.

In faith whereof, the undersigned, in the name of their respective governments, sign the present agreement in duplicate, one for each party, and affix their seals thereto.

Having met in the city of Santiago de Chile, on the second day of the month of November, of the year one thousand eight hundred

and ninety-eight, in the Office of the Ministry of Foreign Affairs, Señor Don Alberto Blancas, Chargé d'Affaires and Plenipotentiary *ad hoc* of the Argentine Republic, according to his telegraphic credentials which shall later be ratified in the usual form, and Señor Don Juan José Latorre, Minister of Foreign Affairs, for the purpose of continuing the conference referred to in the act of September 17, ultimo, and having conferred with each other, have agreed:

First. To designate an Argentine delegate and a Chilean delegate, as well as the present Minister of the United States of North America accredited to the Argentine Republic, so that, as demarcators, and in accordance with the documents and antecedents of the question they may proceed by a majority vote to trace in a definitive manner the boundary line referred to in the first clause of the agreement of the seventeenth of April, of the year one thousand eight hundred and ninety-six.

Secondly. When the boundary line shall have been traced, the demarcation commission shall communicate the fact to the respective governments so that the information may be communicated to the Government of Bolivia, and the dividing land-marks as deemed necessary established in the locality along the points of that line.

Thirdly. The demarcation commission shall meet in the city of Buenos Aires and begin to perform its charge forty-eight hours after the respective governments shall have informed the members that the case has arisen which was forecast in the [other] agreement of this same date. Three days after the first session, the demarcation of the boundary line must have been settled.

Fourthly. If there should be divergence of opinion regarding the solution reached, the dissenting member may record that fact under his signature, but he may not give the reasons therefor.

In faith whereof, the undersigned, in the name of their respective governments, sign the present agreement in duplicate, one for each party, and affix their seals thereto.

[Here follow signatures.]

No. 150

BRAZIL—CHILE

*General arbitration treaty.—Signed at Rio de Janeiro, May 18, 1899*¹

The President of the Chilean Republic and the President of the Republic of the United States of Brazil, desiring to establish a means of settling the controversies which may arise between the two countries, which can not be settled amicably by means of direct negotiations, have agreed to celebrate a treaty of arbitration, to which end they have named their plenipotentiaries, to wit:

The President of the Republic of Chile, Don Angel Custodio Vicuna, Envoy Extraordinary and Minister Plenipotentiary of this same republic;

The President of the Republic of the United States of Brazil, Dr. Olyntho Maximo de Magalhaes, Minister of State for Foreign Affairs;

Who, having exchanged their respective full powers, which they found in good and due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties bind themselves to submit to arbitration the controversies which may arise between them during the existence of this treaty, in which the contradictory claims can be juridically formulated, and in respect of which a friendly solution can not be obtained by direct negotiations.

ARTICLE II

In each case the high contracting parties shall conclude a special convention, which shall determine the precise object of the litigation, the duration of the powers of the arbitrator, and all the rules relative to the procedure. This convention failing, the arbitrator shall have the power to make the specification, as a basis for the reciprocal claims of the parties, of the points of litigation and of law which must be determined in order to decide the question.

ARTICLE III

There shall be only one arbitrator and his election must devolve upon the government of a friendly power, mutually accepted by the

¹ Portuguese: Brazil, *Diario Oficial*, April 19, 1906.

Spanish: *Tratados de Chile*, vol. v, p. 71.

Ratifications exchanged at Santiago, March 7, 1906.

parties. If they can not agree upon this point, each one of the parties shall indicate a government of his choice, and the two on which this designation may have fallen, shall choose a third government, which shall be definitively elected as arbitrator for the two interested nations. When one of the parties fails to indicate the arbitrator of his choice within thirty days after the designation of the other party, the arbitrator chosen by the latter shall be definitive judge in the dispute.

ARTICLE IV

Provided that the parties agree, the arbitral functions may be likewise entrusted to tribunals of justice, scientific corporations, public officials and to private persons, who may or may not be citizens of the state which appoints them.

ARTICLE V

The arbitrator shall make use, in order to render justice, of all the means of information which he deems necessary, and the parties agree to place them at his disposal. An agent of each one of the nations interested in the litigation shall represent his own government in all the matters which relate to the arbitration.

ARTICLE VI

The arbitrator is competent to decide on the validity of the compromise and on its interpretation. He must decide according to the principles of international law, provided the compromise does not impose the application of special rules or does not authorize the arbitrator to decide as friendly arbitrator.

ARTICLE VII

The sentence must decide definitively each point of the litigation and must be drawn up in duplicate and signed by the arbitrator. He must also notify each of the parties through their respective agents.

ARTICLE VIII

The sentence legally pronounced decides, within the limits of its powers, the dispute between the parties. It must contain the indication of the periods within which it must be executed. The same arbitrator who has pronounced it shall decide any questions which may arise in the execution of the sentence.

ARTICLE IX

If any of the interested nations, before the execution of the sentence, should have knowledge of its having been decided on the basis of a false or mistaken document, or that the sentence, in whole or in part, had been the consequence of an error of litigation, they may seek the revision of the pronounced decision before the same arbitrator.

ARTICLE X

Each one of the contracting states is obliged to observe and faithfully execute the arbitral sentence.

ARTICLE XI

The present treaty shall have obligatory force for ten years, to start from the date of the exchange of ratifications. When this period has elapsed it shall continue in force until either one of the high contracting parties notifies the other of its intention to withdraw. In this case, it shall continue in existence until a year from the date of the said notification.

ARTICLE XII

The general expenses of the arbitration shall be divided proportionately between the two nations taking part in the treaty.

ARTICLE XIII

The present treaty shall be ratified and the ratifications exchanged in Santiago, Chile, in the shortest time possible.

In faith whereof, the respective plenipotentiaries have signed and sealed the present treaty in duplicate, each copy in both the Spanish and Portuguese languages.

Done in the City of Rio de Janeiro, the eighteenth of May, one thousand eight hundred and ninety-nine.

[Here follow signatures.]

No. 151

ARGENTINA—URUGUAY

*General arbitration treaty.—Signed at Buenos Aires, June 8, 1899*¹

The Governments of the Argentine Republic and of the Republic of Uruguay, being animated by the common desire to arrange by amicable means any question which may arise between the two countries, have resolved to draw up a general treaty of arbitration, for which purpose they nominate as their plenipotentiaries, to wit:

His Excellency the President of the Argentine Republic, his Minister in the Department of Foreign Affairs and Religion, Dr. Don Amancio Alcorta; and

His Excellency the President of the Republic of Uruguay, his Envoy Extraordinary and Minister Plenipotentiary in the Argentine Republic, Dr. Don Gonzalo Ramirez;

Who, having communicated their full powers, which were found to be in good and due form, agreed upon the following articles:

ARTICLE I

The high contracting parties undertake to submit to decision by arbitration all controversies of whatever nature which for any cause whatsoever may arise between them, in so far as they do not affect the principles of the constitution of either country, and provided always that they can not be settled by means of direct negotiations.

ARTICLE II

Questions which may have been the object of definitive agreements between the contracting parties can not be reopened by virtue of this treaty. In such cases arbitration shall be limited exclusively to the questions which may arise respecting the validity, interpretation and fulfilment of such agreements.

ARTICLE III

In every case which occurs the arbitration tribunal shall be constituted to decide the controversy raised. If there should be dis-

¹ English: *British and Foreign State Papers*, vol. xciv, p. 525.

Spanish: *Tratados de Argentina*, vol. ix, p. 596.

As amended by a modifying protocol of December 21, 1901.

Ratifications exchanged at Buenos Aires, January 18, 1902.

The treaty as originally signed provided in Article III that in case of disagreement between the two arbiters as to the chief of a state to name the third the President of the French Republic was to name him.

agreement respecting the constitution of the tribunal the latter shall be composed of three judges. Each state shall name an arbiter, and these shall designate the third. If they should be unable to agree upon that designation, it shall be made by the Chief of a third state who shall be indicated by the arbiters named by the parties. Should they be unable to agree as to this latter nomination each party shall designate a different power and the choice of the third arbiter shall be made by the two powers thus designated. The arbiter thus selected shall be of right president of the tribunal.

A person can not be named as third arbiter who has already given a decision in that capacity in a case of arbitration under this treaty.

ARTICLE IV

No one of the arbiters shall be a citizen of the contracting states or domiciled in their territory. Neither shall he have an interest in the questions submitted to arbitration.

ARTICLE V

In case of one or more of the arbiters declining, withdrawing or being otherwise prevented from acting, substitutes shall be found in the same manner as that adopted for their nomination.

ARTICLE VI

The points at issue shall be indicated by the contracting states who shall also be able to determine the scope of the arbiters' powers and any other circumstance relating to the procedure.

ARTICLE VII

In default of special stipulations between the parties, it shall be incumbent on the tribunal to fix the time and place of its sessions outside the territory of the contracting states, to select the language to be employed, to determine the methods of proof, the formalities and terms to be prescribed to the parties, the procedure to be followed, and, in general, to take all measures necessary for the exercise of its functions and to settle all the difficulties of procedure which might arise in the course of the debate.

The litigants undertake to furnish the arbiters with all the means of information at their disposal.

ARTICLE VIII

Each of the parties may appoint one or more mandatories to represent it on the arbitration tribunal.

ARTICLE IX

The tribunal is competent to decide upon the regularity of its own constitution, and upon the validity and interpretation of the agreement. It is equally competent to decide disputes which may arise between the litigants as to whether questions determined by it were or were not points submitted to jurisdiction by arbitration in the written agreement.

ARTICLE X

The tribunal shall decide in accordance with the principles of international law unless the agreement calls for the application of special rules or authorizes the arbiters to decide in the character of friendly advisers.

ARTICLE XI

A tribunal shall not be formed without the concurrence of the three arbiters. In case the minority, when duly cited, should not be willing to attend the deliberations or other proceedings, the tribunal shall be formed by the majority of the arbiters only who shall record the voluntary and unjustified absence of the minority.

The decision of the majority of the arbiters shall be accepted as the award, but if the third arbiter does not accept the opinion of either of the arbiters named by the parties, his decision shall be final.

ARTICLE XII

The award shall decide definitely each point in litigation, and shall set forth the grounds upon which it is based.

It shall be drawn up in duplicate and signed by all the arbiters. If any one of them should refuse to sign it the others shall mention that circumstance in a special protocol, and the award shall take effect whenever it is signed by the majority of the arbiters. The dissenting arbiter shall confine himself to recording his dissent when the award is signed without stating his reasons.

ARTICLE XIII

The award shall be announced to each of the parties through the medium of its representative on the tribunal.

ARTICLE XIV

The award legally pronounced decides within the terms of reference the controversy between the parties.

ARTICLE XV

The tribunal shall determine in its award the period within which it shall be executed, being also competent to decide the questions which may arise with reference to its execution.

ARTICLE XVI

There is no appeal against the award, and its fulfilment is confided to the honor of the nations who have signed this compact.

Nevertheless, an appeal will be allowed for revision before the same tribunal which pronounced it, provided it is lodged before the lapse of the period assigned for the execution, in the following cases:

(1) If the award has been pronounced in consequence of a document having been falsified or tampered with;

(2) If the award has been in whole or in part the consequence of an error of fact resulting from the arguments or documents of the case.

ARTICLE XVII

Each of the parties shall pay its own expenses and half of the general expenses of the tribunal of arbitration.

ARTICLE XVIII

The present treaty shall remain in force ten years, dating from the exchange of ratifications. If it should not be denounced six months before the lapse of that period, it shall be considered to be renewed for another space of ten years, and so on.

The present treaty shall be ratified, and the ratifications shall be exchanged in Buenos Aires within six months of its date.

In virtue of which the plenipotentiaries of the Argentine Republic and the Republic of Uruguay have signed the present treaty in duplicate and sealed it with their respective seals in the city of Buenos Aires, on the eighth day of June, 1899.

[Here follow signatures.]

No. 152

FORTY-FOUR NATIONS

First Hague Arbitration Convention (Convention for the pacific settlement of international disputes).—Signed at The Hague, July 29, 1899¹

His Majesty the Emperor of Germany, King of Prussia; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; His Majesty the Emperor of China; His Majesty the King of Denmark; His Majesty the King of Spain and in His Name Her Majesty the Queen Regent of the Kingdom; the President of the United States of America; the President of the United Mexican States; the President of the French Republic; Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India; His Majesty the King of the Hellenes; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; His Highness the Prince of Montenegro; Her Majesty the Queen of the Netherlands; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, etc.; His Majesty the King of Rumania; His Majesty the Emperor of all the Russias; His Majesty the King of Serbia; His Majesty the King of Siam; His Majesty the King of Sweden and Norway; the Swiss Federal Council; His Majesty the Emperor of the Ottomans and His Royal Highness the Prince of Bulgaria

¹ English translation and French original: *United States Statutes at Large*, vol. 32, p. 1779. A Spanish translation may be found in Wiesse, *Tratados de Arbitramiento*, p. 154.

Replaced as between certain states by the Second Hague Convention, dated October 18, 1907, No. 193, *post*, p. 368, especially Article 91.

In pursuance of the stipulations of Article LVIII of the convention ratifications were deposited at The Hague on September 4, 1900, by the plenipotentiaries of the Governments of the United States of America, Germany, Austria-Hungary, Belgium, Denmark, Spain, France, Great Britain, Italy, the Netherlands, Persia, Portugal, Rumania, Russia, Siam, Sweden and Norway (since 1905, two nations) and Bulgaria; on October 6, 1900, by the plenipotentiary of the Government of Japan; on October 16, 1900, by the plenipotentiary of the Government of Montenegro; on December 29, 1900, by the plenipotentiary of the Government of Switzerland; on April 4, 1901, by the plenipotentiary of the Government of Greece; on April 17, 1901, by the plenipotentiary of the Government of Mexico; on May 11, 1901, by the plenipotentiary of the Government of Serbia; and on July 12, 1901, by the plenipotentiary of the Government of Luxemburg. Malloy, *Treaties and Conventions of the United States*, vol. II, p. 2032. China ratified it November 21, 1904, and Turkey, June 12, 1907. Adhered to by the Argentine Republic, Bolivia, Brazil, Chile, Colombia, Cuba, Dominican Republic, Guatemala, Haiti, Nicaragua, Panama, Paraguay, Peru, and Venezuela, all on June 15, 1907; by Uruguay on June 17, 1907; by Salvador on June 17, 1907; and by Ecuador on July 3, 1907.

Animated by a strong desire to concert for the maintenance of the general peace;

Resolved to second by their best efforts the friendly settlement of international disputes;

Recognizing the solidarity which unites the members of the society of civilized nations;

Desirous of extending the empire of law, and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a Court of Arbitration, accessible to all, in the midst of the independent powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of arbitral procedure;

Sharing the opinion of the august initiator of the international peace conference that it is expedient to record in an international agreement the principles of equity and right on which are based the security of states and the welfare of peoples;

Being desirous of concluding a convention to this effect, have appointed as their plenipotentiaries, to wit:

His Majesty the Emperor of Germany, King of Prussia: His Excellency Count de Münster, Prince of Derneburg, his Ambassador at Paris.

His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary: His Excellency Count R. de Welser-sheimb, his Ambassador Extraordinary and Plenipotentiary; Mr. Alexander Okolicsanyi d'Okolicsna, his Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of the Belgians: His Excellency Mr. Auguste Beernaert, his Minister of State, President of the Chamber of Representatives; Count de Grelle Rogier, his Envoy Extraordinary and Minister Plenipotentiary at The Hague; the Chevalier Descamps, Senator.

His Majesty the Emperor of China: Mr. Yang Yü, his Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg.

His Majesty the King of Denmark: His Chamberlain Fr. E. de Bille, his Envoy Extraordinary and Minister Plenipotentiary at London.

His Majesty the King of Spain and in His Name, Her Majesty the Queen Regent of the Kingdom: His Excellency the Duke of Tetuan, formerly Minister of Foreign Affairs; Mr. W. Ramirez de Villa

Urrutia, his Envoy Extraordinary and Minister Plenipotentiary at Brussels; Mr. Arthur de Baguer, his Envoy Extraordinary and Minister Plenipotentiary at The Hague.

The President of the United States of America: His Excellency Mr. Andrew D. White, Ambassador of the United States at Berlin; Mr. Seth Low, President of Columbia University, New York; Mr. Stanford Newel, Envoy Extraordinary and Minister Plenipotentiary at The Hague; Captain Alfred T. Mahan; Captain William Crozier.

The President of the United Mexican States: Mr. de Mier, Envoy Extraordinary and Minister Plenipotentiary at Paris; Mr. Zenil, Minister Resident at Brussels.

The President of the French Republic: Mr. Léon Bourgeois, formerly President of the Council, formerly Minister of Foreign Affairs, member of the Chamber of Deputies; Mr. Georges Bihourd, Envoy Extraordinary and Minister Plenipotentiary at The Hague; Baron d'Estournelles de Constant, Minister Plenipotentiary, member of the Chamber of Deputies.

Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, Empress of India: His Excellency the Right Honorable Baron Pauncefote of Preston, member of Her Majesty's Privy Council, her Ambassador Extraordinary and Plenipotentiary at Washington; Sir Henry Howard, her Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of the Hellenes: Mr. N. Delyanni, formerly President of the Council, formerly Minister of Foreign Affairs, his Envoy Extraordinary and Minister Plenipotentiary at Paris.

His Majesty the King of Italy: His Excellency Count Nigra, his Ambassador at Vienna, Senator of the Kingdom; Count A. Zannini, his Envoy Extraordinary and Minister Plenipotentiary at The Hague; Commander Guido Pompilj, Deputy in the Italian Parliament.

His Majesty the Emperor of Japan: Mr. I. Motono, his Envoy Extraordinary and Plenipotentiary at Brussels.

His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau: His Excellency Mr. Eyschen, his Minister of State, President of the Grand Ducal Government.

His Highness the Prince of Montenegro: His Excellency the present Privy Councilor de Staal, Ambassador of Russia at London.

Her Majesty the Queen of the Netherlands: Jonkheer A. P. C. van Karnebeek, formerly Minister of Foreign Affairs, member of the

Second Chamber of the States-General; General J. C. C. den Beer Poortugael, formerly Minister of War, member of the Council of State; Mr. T. M. C. Asser, member of the Council of State; Mr. E. N. Rahusen, member of the First Chamber of the States-General.

His Imperial Majesty the Shah of Persia: His Aid-de-Camp General Mirza Riza Khan, Arfa-ud-Dovleh, his Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and at Stockholm.

His Majesty the King of Portugal and of the Algarves, etc.: Count de Macedo, Peer of the Kingdom, formerly Minister of the Navy and of the Colonies, his Envoy Extraordinary and Minister Plenipotentiary at Madrid; Mr. d'Ornellas et Vasconcellos, Peer of the Kingdom, his Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg; Count de Selir, his Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the King of Rumania: Mr. Alexander Beldiman, his Envoy Extraordinary and Minister Plenipotentiary at Berlin; Mr. Jean N. Papiniu, his Envoy Extraordinary and Minister Plenipotentiary at The Hague.

His Majesty the Emperor of All the Russias: His Excellency the present Privy Councilor de Staal, his Ambassador at London; Mr. de Martens, permanent member of the Council of the Imperial Ministry of Foreign Affairs, his Privy Councilor; His present Councilor of State de Basily, Chamberlain, Director of the First Department of the Imperial Ministry of Foreign Affairs.

His Majesty the King of Serbia: Mr. Miyatovitch, his Envoy Extraordinary and Minister Plenipotentiary at London and at The Hague.

His Majesty the King of Siam: Phya Suriya Nuvatr, his Envoy Extraordinary and Minister Plenipotentiary at St. Petersburg and at Paris; Phya Visuddha Suriyasakti, his Envoy Extraordinary and Minister Plenipotentiary at The Hague and at London.

His Majesty the King of Sweden and Norway: Baron de Bildt, his Envoy Extraordinary and Minister Plenipotentiary at Rome.

The Swiss Federal Council: Dr. Arnold Roth, Envoy Extraordinary and Minister Plenipotentiary at Berlin.

His Majesty the Emperor of the Ottomans: his Excellency Turkhan Pacha, formerly Minister of Foreign Affairs, Member of His Council of State; Noury Bey, Secretary-General at the Ministry of Foreign Affairs.

His Royal Highness the Prince of Bulgaria: Dr. Dimitri Stancioff,

Diplomatic Agent at St. Petersburg; Major Christo Hessaptchieff, Military Attaché at Belgrade.

Who, after communication of their full powers, found in good and due form have agreed on the following provisions:

TITLE I.—ON THE MAINTENANCE OF THE GENERAL PEACE

ARTICLE I

With a view to obviating, as far as possible, recourse to force in the relations between states, the signatory powers agree to use their best efforts to insure the pacific settlement of international differences.

TITLE II.—ON GOOD OFFICES AND MEDIATION

ARTICLE II

In case of serious disagreement or conflict, before an appeal to arms, the signatory powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly powers.

ARTICLE III

Independently of this recourse, the signatory powers recommend that one or more powers, strangers to the dispute, should, on their own initiative, and as far as circumstances may allow, offer their good offices or mediation to the states at variance.

Powers, strangers to the dispute, have the right to offer good offices or mediation, even during the course of hostilities.

The exercise of this right can never be regarded by one or the other of the parties in conflict as an unfriendly act.

ARTICLE IV

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the states at variance.

ARTICLE V

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute, or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

ARTICLE VI

Good offices and mediation, either at the request of the parties at variance, or on the initiative of powers strangers to the dispute, have exclusively the character of advice and never having binding force.

ARTICLES VII

The acceptance of mediation can not, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If mediation occurs after the commencement of hostilities it causes no interruption to the military operations in progress, unless there be an agreement to the contrary.

ARTICLE VIII

The signatory powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:

In case of a serious difference endangering the peace, the states at variance choose respectively a power, to whom they intrust the mission of entering into direct communication with the power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, can not exceed thirty days, the states in conflict cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating powers, who must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these powers are charged with the joint task of taking advantage of any opportunity to restore peace.

TITLE III.—ON INTERNATIONAL COMMISSIONS OF INQUIRY

ARTICLE IX

In differences of an international nature involving neither honor nor vital interests, and arising from a difference of opinion on points of fact, the signatory powers recommend that the parties, who have not been able to come to an agreement by means of diplomacy, should as far as circumstances allow, institute an international commission of inquiry, to facilitate a solution of these differences by elucidating the facts by means of an impartial and conscientious investigation.

ARTICLE X

The international commissions of inquiry are constituted by special agreement between the parties in conflict.

The convention for an inquiry defines the facts to be examined and the extent of the commissioners' powers.

It settles the procedure.

On the inquiry both sides must be heard.

The form and the periods to be observed, if not stated in the inquiry convention, are decided by the commission itself.

ARTICLE XI

The international commissions of inquiry are formed, unless otherwise stipulated, in the manner fixed by Article XXXII of the present convention.

ARTICLE XII

The powers in dispute engage to supply the international commission of inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to be completely acquainted with and to accurately understand the facts in question.

ARTICLE XIII

The international commission of inquiry communicates its report to the conflicting powers, signed by all the members of the commission.

ARTICLE XIV

The report of the international commission of inquiry is limited to a statement of facts, and has in no way the character of an arbitral award. It leaves the conflicting powers entire freedom as to the effect to be given to this statement.

TITLE IV.—ON INTERNATIONAL ARBITRATION

CHAPTER I.—*On the system of arbitration*

ARTICLE XV

International arbitration has for its object the settlement of differences between states by judges of their own choice, and on the basis of respect for law.

ARTICLE XVI

In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is

recognized by the signatory powers as the most effective, and at the same time the most equitable, means of settling disputes which diplomacy has failed to settle.

ARTICLE XVII

The arbitration convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

ARTICLE XVIII

The arbitration convention implies the engagement to submit loyally to the award.

ARTICLE XIX

Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the signatory powers, these powers reserve to themselves the right of concluding, either before the ratification of the present act or later, new agreements, general or private, with a view to extending obligatory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II.—*On the Permanent Court of Arbitration*

ARTICLE XX

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the signatory powers undertake to organize a Permanent Court of Arbitration, accessible at all times and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present convention.

ARTICLE XXI

The Permanent Court shall be competent for all arbitration cases, unless the parties agree to institute a special tribunal.

ARTICLE XXII

An International Bureau, established at The Hague, serves as record office for the Court.

This Bureau is the channel for communications relative to the meetings of the Court.

It has the custody of the archives and conducts all the administrative business.

The signatory powers undertake to communicate to the International Bureau at The Hague a duly certified copy of any conditions of arbitration arrived at between them, and of any award concerning them delivered by special tribunals.

They undertake also to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the awards given by the Court.

ARTICLE XXIII

Within the three months following its ratification of the present act, each signatory power shall select four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrators.

The persons thus selected shall be inscribed, as members of the Court, in a list which shall be notified by the Bureau to all the signatory powers.

Any alteration in the list of arbitrators is brought by the Bureau to the knowledge of the signatory powers.

Two or more powers may agree on the selection in common of one or more members.

The same person can be selected by different powers.

The members of the Court are appointed for a term of six years. Their appointments can be renewed.

In case of the death or retirement of a member of the Court, his place shall be filled in accordance with the method of his appointment.

ARTICLE XXIV

When the signatory powers desire to have recourse to the Permanent Court for the settlement of a difference that has arisen between them, the arbitrators called upon to form the competent tribunal to decide this difference, must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the arbitration tribunal, the following course shall be pursued:

Each party appoints two arbitrators, and these together choose an umpire.

If the votes are equal, the choice of the umpire is intrusted to a third power, selected by the parties by common accord.

If an agreement is not arrived at on this subject, each party selects

a different power, and the choice of the umpire is made in concert by the powers thus selected.

The tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court and the names of the arbitrators.

The tribunal of arbitration assembles on the date fixed by the parties.

The members of the Court, in the discharge of their duties and out of their own country, enjoy diplomatic privileges and immunities.

ARTICLE XXV

The tribunal of arbitration has its ordinary seat at The Hague.

Except in cases of necessity, the place of session can only be altered by the tribunal with the assent of the parties.

ARTICLE XXVI

The International Bureau at The Hague is authorized to place its premises and its staff at the disposal of the signatory powers for the operations of any special board of arbitration.

The jurisdiction of the Permanent Court, may, within the conditions laid down in the regulations, be extended to disputes between non-signatory powers, or between signatory powers and non-signatory powers, if the parties are agreed on recourse to this tribunal.

ARTICLE XXVII

The signatory powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the conflicting parties of the provisions of the present convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

ARTICLE XXVIII

A Permanent Administrative Council, composed of the diplomatic representatives of the signatory powers accredited to The Hague and of the Netherland Minister for Foreign Affairs, who will act as President, shall be instituted in this town as soon as possible after the ratification of the present act by at least nine powers.

This Council will be charged with the establishment and or-

ganization of the International Bureau, which will be under its direction and control.

It will notify to the powers the constitution of the Court and will provide for its installation.

It will settle its rules of procedure and all other necessary regulations.

It will decide all questions of administration which may arise with regard to the operations of the Court.

It will have entire control over the appointment, suspension or dismissal of the officials and employees of the Bureau.

It will fix the payments and salaries, and control the general expenditure.

At meetings duly summoned the presence of five members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the signatory powers without delay the regulations adopted by it. It furnishes them with an annual report on the labors of the Court, the working of the administration, and the expenses.

ARTICLE XXIX

The expenses of the Bureau shall be borne by the signatory powers in the proportion fixed for the International Bureau of the Universal Postal Union.

CHAPTER III.—*On arbitral procedure*

ARTICLE XXX

With a view to encourage the development of arbitration, the signatory powers have agreed on the following rules which shall be applicable to arbitral procedure, unless other rules have been agreed on by the parties.

ARTICLE XXXI

The powers who have recourse to arbitration sign a special act (*compromis*), in which the subject of the difference is clearly defined, as well as the extent of the arbitrators' powers. This act implies the undertaking of the parties to submit loyally to the award.

ARTICLE XXXII

The duties of arbitrator may be conferred on one arbitrator alone or on several arbitrators selected by the parties as they please,

or chosen by them from the members of the Permanent Court of Arbitration established by the present act.

Failing the constitution of the tribunal by direct agreement between the parties, the following course shall be pursued:

Each party appoints two arbitrators, and these latter together choose an umpire.

In case of equal voting, the choice of the umpire is intrusted to a third power, selected by the parties by common accord.

If no agreement is arrived at on this subject, each party selects a different power, and the choice of the umpire is made in concert by the powers thus selected.

ARTICLE XXXIII

When a sovereign or the chief of a state is chosen as arbitrator, the arbitral procedure is settled by him.

ARTICLE XXXIV

The umpire is by right president of the tribunal.

When the tribunal does not include an umpire, it appoints its own president.

ARTICLE XXXV

In case of the death, retirement, or disability from any cause of one of the arbitrators, his place shall be filled in accordance with the method of his appointment.

ARTICLE XXXVI

The tribunal's place of session is selected by the parties. Failing this selection the tribunal sits at The Hague.

The place thus fixed can not, except in case of necessity, be changed by the tribunal without the assent of the parties.

ARTICLE XXXVII

The parties have the right to appoint delegates or special agents to attend the tribunal, for the purpose of serving as intermediaries between them and the tribunal.

They are further authorized to retain, for the defense of their rights and interests before the tribunal, counsel or advocates appointed by them for this purpose.

ARTICLE XXXVIII

The tribunal decides on the choice of languages to be used by itself, and to be authorized for use before it.

ARTICLE XXXIX

As a general rule the arbitral procedure comprises two distinct phases; preliminary examination and discussion.

Preliminary examination consists in the communication by the respective agents to the members of the tribunal and to the opposite party of all printed or written acts and of all documents containing the arguments invoked in the case. This communication shall be made in the form and within the periods fixed by the tribunal in accordance with Article XLIX.

Discussion consists in the oral development before the tribunal of the arguments of the parties.

ARTICLE XL

Every document produced by one party must be communicated to the other party.

ARTICLE XLI

The discussions are under the direction of the President.

They are only public if it be so decided by the tribunal, with the assent of the parties.

They are recorded in the *procès-verbaux* drawn up by the secretaries appointed by the president. These *procès-verbaux* alone have an authentic character.

ARTICLE XLII

When the preliminary examination is concluded, the tribunal has the right to refuse discussion of all fresh acts or documents which one party may desire to submit to it without the consent of the other party.

ARTICLE XLIII

The tribunal is free to take into consideration fresh acts or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the tribunal has the right to require the production of these acts or documents, but is obliged to make them known to the opposite party.

ARTICLE XLIV

The tribunal can, besides, require from the agents of the parties the production of all acts, and can demand all necessary explanations. In case of refusal, the tribunal takes note of it.

ARTICLE XLV

The agents and counsel of the parties are authorized to present orally to the tribunal all the arguments they may think expedient in defense of their case.

ARTICLE XLVI

They have the right to raise objections and points. The decisions of the tribunal on those points are final, and can not form the subject of any subsequent discussion.

ARTICLE XLVII

The members of the tribunal have the right to put questions to the agents and counsel of the parties, and to demand explanations from them on doubtful points.

Neither the questions put nor the remarks made by members of the tribunal during the discussions can be regarded as an expression of opinion by the tribunal in general, or by its members in particular.

ARTICLE XLVIII

The tribunal is authorized to declare its competence in interpreting the *compromis* as well as the other treaties which may be invoked in the case, and in applying the principles of international law.

ARTICLE XLIX

The tribunal has the right to issue rules of procedure for the conduct of the case, to decide the forms and periods within which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

ARTICLE L

When the agents and counsel of the parties have submitted all explanations and evidence in support of their case, the president pronounces the discussion closed.

ARTICLE LI

The deliberations of the tribunal take place in private. Every decision is taken by a majority of members of the tribunal.

The refusal of a member to vote must be recorded in the *procès-verbal*.

ARTICLE LII

The award, given by a majority of votes, is accompanied by a statement of reasons. It is drawn up in writing and signed by each member of the tribunal.

Those members who are in the minority may record their dissent when signing.

ARTICLE LIII

The award is read out at a public meeting of the tribunal, the agents and counsel of the parties being present, or duly summoned to attend.

ARTICLE LIV

The award, duly pronounced and notified to the agents of the parties at variance, puts an end to the dispute definitely and without appeal.

ARTICLE LV

The parties can reserve in the *compromis* the right to demand the revision of the award.

In this case, and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence on the award, and which, at the time the discussion was closed, was unknown to the tribunal and to the party demanding the revision.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character described in the foregoing paragraph, and declaring the demand admissible on this ground.

The *compromis* fixes the period within which the demand for revision must be made.

ARTICLE LVI

The award is only binding on the parties who concluded the *compromis*.

When there is a question of interpreting a convention to which powers other than those concerned in the dispute are parties, the latter notify to the former the *compromis* they have concluded. Each of these powers has the right to intervene in the case. If one or more of them avail themselves of this right, the interpretation contained in the award is equally binding on them.

ARTICLE LVII

Each party pays its own expenses and an equal share of those of the tribunal.

General provisions

ARTICLE LVIII

The present convention shall be ratified as speedily as possible.

The ratification shall be deposited at The Hague.

A *procès-verbal* shall be drawn up recording the receipt of each ratification, and a copy duly certified shall be sent, through the diplomatic channel, to all the powers who were represented at the International Peace Conference at The Hague.

ARTICLE LIX

The non-signatory powers who were represented at the International Peace Conference can adhere to the present convention. For this purpose they must make known their adhesion to the contracting powers by a written notification addressed to the Netherland Government, and communicated by it to all the other contracting powers.

ARTICLE LX

The conditions on which the powers who were not represented at the International Peace Conference can adhere to the present convention shall form the subject of a subsequent agreement among the contracting powers.

ARTICLE LXI

In the event of one of the high contracting parties denouncing the present convention, this denunciation would not take effect until a year after its notification made in writing to the Netherland Government, and by it communicated at once to all the other contracting powers.

This denunciation shall only affect the notifying power.

In faith of which the plenipotentiaries have signed the present convention and affixed their seals to it.

Done at The Hague, the twenty-ninth of July, one thousand eight hundred and ninety-nine, in a single copy, which shall remain in the archives of the Netherland Government, and copies

of it, duly certified, be sent through the diplomatic channel to the contracting powers.

[Here follow signatures.]

No. 153

HAITI—UNITED STATES

*Agreement to arbitrate the claim of John D. Metzger and Company against the Government of Haiti—Signed at Washington, October 18, 1899*¹

The United States of America and the Republic of Haiti, through their representatives, John Hay, Secretary of State of the United States of America, and J. N. Léger, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Haiti, have agreed upon and signed the following protocol:

Whereas, the said John D. Metzger and Company, citizens of the United States of America, have claimed, through the Government of the United States, from the Government of Haiti, indemnity on account of the seizure and sale of their goods at Port-au-Prince for the non-payment of certain license taxes; and on account of the alleged failure to furnish them an adequate supply of water for the operation of their mill at Port-au-Prince; and on account of the alleged liability of Haiti on account of a quantity of lumber alleged to have been sold by them for a Relief Committee on the occasion of devastation by fire at Jacmel, it is agreed between the two governments:

I

That the question of the liability of the Republic of Haiti to pay an indemnity in each of said cases, and, if so found by the arbitrator, the further question of the amount of the said indemnity to be awarded, shall be referred to the Honorable William R. Day, sometime Secretary of State of the United States, and now Judge of the Circuit Court thereof, who is hereby appointed as arbitrator to hear said causes, and to determine the questions of said liability and the amount of said indemnity, if any is found by said arbitrator to be justly due.

¹ English and French: *United States Treaty Series*.

The instrument makes no provision for ratification or exchange.

A supplementary protocol of June 30, 1900, changed the fourth article so as to give until October 1, 1900, for the arbitrator to render his decision instead of until July 1, 1900.

II

The Government of the United States will lay before the arbitrator the claimants' evidence and all correspondence, either between the Haitian Government and the United States Minister at Port-au-Prince, or between the Department of State and the Haitian Minister at Washington, and the dispatches with their enclosures from the said Minister, reporting documentary or other evidence to the Department of State in relation to said claims.

Reciprocally, the Haitian Government shall have the same rights of presentation of evidence in its own behalf, as are above stipulated for the Government of the United States.

Each government will furnish to the other a duplicate of the evidence and correspondence at the same time they are by them respectively laid before the arbitrator.

If, in the opinion of the arbitrator, it shall be deemed desirable, in the interests of justice, to take further evidence, he shall communicate to both parties his opinion, and shall indicate the questions of fact on which the same shall be taken. Likewise, either government, on notice to the other, may apply to him for that purpose. Each government shall, in case the arbitrator orders the taking, name an agent to take such evidence, in its own behalf, who shall each have the right to be present at the taking thereof, and to cross-examine the witnesses and take copies of documentary evidence offered by the other. All questions of procedure shall be left to the determination of the arbitrator. Each government agrees to abide by such determination, and in default thereof, the said arbitrator may proceed in such manner and at such times as he may determine, in order to close the proofs and make final award.

III

The Government of Haiti agrees to pay any amount or amounts which may be awarded by the arbitrator, if he finds that it is liable therefore.

IV

The evidence is to be submitted to the arbitrator and finally closed on or before the first day of March, 1900, and his decision is to be rendered within four months thereafter.

V

Each government shall furnish to the arbitrator an argument or brief not later than the first day of April, 1900, a copy of which each

party shall furnish to the other at the same time as to the arbitrator, and the claimant and the commune of Port-au-Prince may also file briefs in the cause on the same terms; but the arbitrator need not for such purpose delay his decision.

VI

The Government of Haiti shall pay the indemnity awarded by the arbitrator, if any, as soon as the Legislative Assembly of Haiti shall authorize the payment; but the time thus allowed shall in no case exceed six months from the day the decision is pronounced, unless an extension of time of its payment should be granted by the Government of the United States.

VII

Reasonable compensation to the arbitrator for all his services and expenses, and the other expenses of said arbitration, are to be paid in equal moieties by the said governments.

VIII

Any award given by the arbitrator shall be final and conclusive.

Done in duplicate in English and in French, at Washington, this eighteenth day of October, 1899.

[Here follow signatures.]

No. 154

ARGENTINA—PARAGUAY

*General arbitration treaty. Signed at Asunción, November 6, 1899*¹

The Governments of the Argentine Republic and of the Republic of Paraguay, being animated by the common desire to arrange by amicable means any question which may arise between the two countries, have resolved to draw up a general treaty of arbitration, for which purpose they nominate as their plenipotentiaries, namely:

His Excellency the President of the Argentine Republic, his Envoy

¹ English: *British and Foreign State Papers*, vol. xcii, p. 485.

Spanish: *Tratados de Argentina*, vol. ix, p. 268.

Ratifications exchanged at Asunción, June 5, 1902. In the third article of the treaty as originally signed, in case the two arbiters should be unable to agree upon a third arbiter and also be unable to agree upon the chief of a third state who should name a third arbiter, it was agreed that the President of the Swiss Republic was to name the third. An amendment agreed upon in a modifying protocol signed January 25, 1902, has been substituted in the text as here printed, which therefore conforms to the ratified treaty.

Extraordinary and Minister Plenipotentiary to the Republic of Paraguay, Don Lauro Cabral; and

His Excellency the President of the Republic of Paraguay, his Minister for the Department of Foreign Affairs, Don José S. Decoud;

Who, having communicated their full powers, which were found to be in good and due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties undertake to submit to decision by arbitration all controversies of whatever nature which for any cause whatsoever may arise between them, in so far as they do not affect the principles of the constitution of either country, and provided always that they can not be settled by means of direct negotiations.

ARTICLE II

Questions which may have been the object of definite agreements between the contracting parties can not be reopened by virtue of this treaty. In such cases arbitration shall be limited exclusively to the questions which may arise respecting the validity, interpretation, and fulfilment of such agreements.

ARTICLE III

In every case which occurs the arbitration tribunal shall be constituted which is to decide the controversy raised.

If there should be a disagreement respecting the constitution of the tribunal, the latter shall be composed of three judges. Each state shall name an arbiter, and these shall designate the third. If they should be unable to agree upon that designation, it shall be made by a chief of a third state, who shall be indicated by the arbiters named by the parties. Should they be unable to agree as to this latter nomination, each party shall designate a different power and the selection of the third arbiter shall be made by the two powers thus designated. The arbiter thus selected shall be of right president of the tribunal. A person can not be named as third arbiter who has already given a decision in that capacity in a case of arbitration in accordance with this treaty.

ARTICLE IV

No one of the arbiters shall be a citizen of the contracting states or domiciled in their territory. Neither shall he have an interest in the questions submitted to arbitration.

ARTICLE V

In case of one or more of the arbiters declining, withdrawing, or being otherwise prevented from acting, substitutes shall be found in the same manner as that adopted for their nomination.

ARTICLE VI

The points at issue shall be indicated by the contracting states, who shall also be able to determine the scope of the arbiter's powers, and any other circumstance relating to the procedure.

ARTICLE VII

In default of special stipulations between the parties, it shall be incumbent on the tribunal to fix the time and place of its sessions outside the territory of the contracting states, to select the language to be employed, to determine the methods of proof, the formalities and terms to be prescribed to the parties, the procedure to be followed, and in general to take all measures necessary for the exercise of its functions, and to settle all the difficulties of procedure which might arise in the course of the debate.

The litigants undertake to furnish the arbiters with all the means of information at their disposal.

ARTICLE VIII

Each of the parties shall be able to appoint one or more mandatories to represent it before the arbitration tribunal.

ARTICLE IX

The tribunal is competent to decide upon the regularity of its own constitution, and upon the validity and interpretation of the agreement. It is equally competent to decide disputes which may arise between the litigants as to whether questions determined by it were or were not points submitted to jurisdiction by arbitration in the written agreement.

ARTICLE X

The tribunal shall decide in accordance with the principles of international law, unless the agreement calls for the application of special rules, or authorizes the arbiters to decide in the character of friendly advisers.

ARTICLE XI

A tribunal shall not be able to be formed without the concurrence of the three arbiters. In case the minority, when duly cited,

should not be willing to attend the deliberations or other proceedings, the tribunal shall be formed by the majority of the arbiters only, who shall record the voluntary and unjustified absence of the minority.

The decision of the majority of the arbiters shall be accepted as the award; but if the third arbiter does not accept the opinion of either of the arbiters named by the parties, his decision shall be final.

ARTICLE XII

The award shall decide definitely each point in litigation and shall set forth the grounds on which it is based.

It shall be drawn up in duplicate and signed by all the arbiters. If any one of them should refuse to sign it the others shall mention that circumstance in a special protocol, and the award shall take effect whenever it is signed by the majority of the arbiters. The dissenting arbiter shall confine himself to recording his dissent when the award is signed without stating his reasons.

ARTICLE XIII

The award shall be notified to each of the parties through the medium of its representative on the tribunal.

ARTICLE XIV

The award legally pronounced decides within the limits of its scope the controversy between the parties.

ARTICLE XV

The tribunal shall determine in its award the period within which it shall be executed, being also competent to decide the questions which may arise with reference to its execution.

ARTICLE XVI

There is no appeal against the award, and its fulfilment is confided to the honor of the nations who have signed this compact.

Nevertheless, an appeal will be allowed for revision before the same tribunal which pronounced it, provided it is lodged before the lapse of the period assigned for the execution, in the following cases:

1. If the award has been pronounced in consequence of a document having been falsified or tampered with;
2. If the award has been in whole or in part the consequence of an error of fact resulting from the arguments or documents of the case.

ARTICLE XVII

Each of the parties shall pay its own expenses and half the general expenses of the tribunal of arbitration.

ARTICLE XVIII

The present treaty shall remain in force ten years, dating from the exchange of ratifications. If it should not be denounced six months before the lapse of that period, it shall be considered to be renewed for another space of ten years, and so on.

The present treaty shall be ratified, and the ratifications shall be exchanged in Asunción within six months of the date of the same.

In virtue of which the plenipotentiaries of the Argentine Republic and of the Republic of Paraguay have signed the present treaty in duplicate, and sealed it with their respective seals, in the city of Asunción, on the sixth day of November, in the year one thousand eight hundred and ninety-nine.

[Here follow signatures.]

No. 155

GUATEMALA—UNITED STATES

*Agreement for the arbitration of the claim of Robert H. May against the Government of Guatemala.—Signed at Washington, February 23, 1900*¹

The United States of America and the Republic of Guatemala, through their representatives, John Hay, Secretary of State of the United States of America and Antonio Lazo Arriaga, Envoy Ex-

¹ English and Spanish: *United States Treaty Series*.

As amended by the supplemental protocol signed May 10, 1900.

The instrument provided for ratification by the Government of Guatemala but not by the United States. The date of Guatemala's ratification is not at hand; but that it was ratified is to be presumed since the seventh article provided that unless notice of such ratification should be given by April 1, 1900, the agreement was to be void, and there is evidence that the agreement was executed and the award pronounced on November 16, 1900. Malloy, *Treaties and Conventions of the United States*, vol. I, p. 875.

Of the agreement as originally signed, Article II provided that within thirty days after signing the original agreement each party was to furnish to the arbitrator the memorial stating its claim, and within ninety days from the same time each was to furnish to him all documents, papers, etc., instead of ninety and one hundred and fifty days respectively as in the amended text here given; Article III provided that the counsel or attorney for each was to present his written argument within sixty instead of ninety days from the date fixed for the submission of evidence, and the arbitrator was not to delay his decision beyond four instead of six months; and Article IV had inserted the words "as shown by the evidence" after the expression "the amount claimed by said party" besides a slight immaterial alteration in the order of words which did not affect the sense.

traordinary and Minister Plenipotentiary of the Republic of Guatemala, have agreed upon and signed the following protocol.

Whereas, the United States of America, on behalf of Robert H. May, has claimed indemnity from the Government of Guatemala for a debt alleged to be due him from that government under certain contracts between him and that government in connection with the Guatemala Northern Railroad and for damages alleged to have been caused him by that government, its civil or military authorities in connection therewith; and the Government of Guatemala denies any liability therefor; and

Whereas, the Government of Guatemala has claimed that said May is indebted to it both on account of said contracts and of damages caused by his alleged unlawful acts or those of his agents or employees acting by his authority; and said May, to secure his faithful performance of said contract, has delivered to said government a promissory note, signed by certain third parties for \$40,120.79; and the Government of the United States denies any liability on May's part to said Government of Guatemala on account of said claims;

It is therefore agreed between the two governments, with the consent of said May and of his attorney of record:

ARTICLE I

That the questions of law and fact brought in issue between the two governments in respect of their claims shall be referred to the decision of Mr. George Francis Birt Jenner, Her Britannic Majesty's Minister Resident and Consul General to the Republics of Guatemala, Honduras, Nicaragua, Costa Rica and Salvador, whose award shall be final and conclusive.

ARTICLE II

That within ninety days from the date of the signing of the original protocol each party shall have furnished to the arbitrator and to the other a copy of the memorial on which its own claim is based; and within one hundred and fifty days after such signing each government shall furnish to the arbitrator and to the other copies of all the documents, papers, accounts, official correspondence and other evidence on file at their respective foreign offices relating to these claims, and of all affidavits of their respective witnesses relating thereto: Provided, that said arbitrator may request either government

to furnish such additional proof as he may deem necessary in the interests of justice, and each government agrees to comply with said request as far as possible.

ARTICLE III

That each government by its counsel, and said May by his attorney, may severally submit to said arbitrator an argument in writing touching the questions involved within ninety days from the date limited for the submission of the evidence; but the arbitrator shall not for such purpose nor in any event delay his decision beyond six months from the date of the submission to him of the evidence aforesaid.

ARTICLE IV

It shall be the duty of said arbitrator to decide both cases upon such evidence as may have been filed before him and solely upon the issues of law and fact presented by the claim and counterclaim and upon the consideration of said entire controversy, he shall render an award in favor of the party entitled thereto; which shall not exceed the amount claimed by said party and interest at the rate of six per cent per annum thereon from the time said sums were due until the date of the award, and said award shall bear six per cent interest per annum from said date until paid.

ARTICLE V

The award shall be payable in American gold, and in case said award shall be against said May, said Government of Guatemala may retain the aforesaid note as security and collect it for the payment of said award, which said May agrees to pay within six months from the date of the award, the Government of the United States being in nowise responsible for the payment thereof. In case said award shall be against said Government of Guatemala, then said government shall surrender to May said note. Said government shall pay the indemnity awarded against it by the arbitrator, if any, as soon as the Legislative Assembly of Guatemala shall authorize the payment; but the time thus allowed shall in no case exceed six months from the day the decision is rendered, unless an extension of the time of its payment should be granted by the Government of the United States.

ARTICLE VI

Reasonable compensation to the arbitrator for all his services and expenses is to be paid in equal moieties by the said governments.

ARTICLE VII

This protocol shall be submitted for approval and ratification on the part of Guatemala, to its Legislative Assembly. When so approved and ratified the Government of Guatemala will promptly notify the Government of the United States thereof. Unless so approved and ratified and said notice given by April 1, 1900, this protocol shall be deemed null and void.

Done in duplicate in English and Spanish at Washington this twenty-third day of February, 1900.

[Here follow signatures.]

No. 156

NICARAGUA—UNITED STATES

*Agreement for arbitrating the claims of Orr and Laubenheimer, and the Post-Glover Electric Company against the Government of Nicaragua.—Signed at Washington, March 22, 1900*¹

Protocol of an agreement between the United States and Nicaragua for the arbitration of the amount of damages to be awarded Orr and Laubenheimer and the Post-Glover Electric Company, signed at Washington, March 22, 1900.

The United States of America and the Republic of Nicaragua, through their representatives, John Hay, Secretary of State of the United States of America, and Luis F. Corea, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Nicaragua, have agreed upon and signed the following protocol:

Whereas, the said Orr and Laubenheimer, citizens of the United States of America, have claimed, through the Government of the United States from the Government of Nicaragua, indemnity on account of damages sustained through the alleged seizure and detention by Nicaraguan authorities of said Orr and Laubenheimer's steam launches the *Buena Ventura* and the *Alerta*; and

¹ English: Malloy, *Treaties and Conventions of the United States*, vol. II, p. 1290.

Spanish: Manuscript, Department of State, Washington.

The instrument makes no provision for ratification or the exchange of ratifications.

Whereas, the said Post-Glover Electric Company, a citizen of the United States of America, has claimed through the Government of the United States from the Government of Nicaragua indemnity on account of the alleged seizure at Bluefields of certain goods and chattels of the Post-Glover Electric Company:

It is agreed between the two governments:

I

That the question of the amount of the indemnity in each of said cases shall be referred to General E. P. Alexander, who is hereby appointed as arbitrator to hear said cases and to determine the respective amounts of said indemnities.

II

The Government of the United States will lay before the arbitrator and before the Nicaraguan Government a copy of all the correspondence sent, received by and on file in the Department of State in relation to said claims.

III

The Government of the United States having declined to submit any matter in dispute herein to arbitration, except the amount of indemnity to be awarded in each of said cases, the Government of Nicaragua, as an act of deference to the United States, waives its denial of liability in said cases and agrees that said arbitrator may award such sum as he believes said Orr and Laubenheimer and said Post-Glover Electric Company may be justly entitled to; but the award shall not exceed the amount claimed in the memorials filed in the Department of State in each case.

IV

The said evidence is to be submitted to the Nicaraguan Government and to the arbitrator on or before the first day of May, 1900, who may, if he deems it necessary in the interests of justice, require the production of further evidence and each Government agrees to comply with said request so far as possible; but he shall not for that purpose delay his decision beyond July 1, 1900.

V

Each government may furnish to the arbitrator an argument or brief not later than June 1, 1900, but the arbitrator need not for that purpose delay his decision.

VI

The Government of Nicaragua shall pay the indemnity fixed by the arbitrator, if any, in American gold or its equivalent in silver, at the General Treasury at Managua as soon as the Legislative Assembly of Nicaragua shall authorize the payment; but the time thus allowed shall in no case exceed six months from the day the decision is pronounced, unless an extension of time of its payment should be granted by the Government of the United States.

VII

Reasonable compensation to the arbitrator is to be paid in equal moieties by both governments.

VIII

Any award given by the arbitrator shall be final and conclusive.

Done in duplicate at Washington this twenty-second day of March, one thousand nine hundred.

[Here follow signatures.]

No. 157

BOLIVIA—CHILE

*Diplomatic agreement for the arbitration of claims of Bolivian citizens against the Government of Chile.—Signed at Santiago, May 31, 1900*¹

Having met in the Ministry of Foreign Affairs of Chile, Doctor Claudio Pinilla, Envoy Extraordinary and Minister Plenipotentiary of Bolivia, and Mr. Rafael Errázuriz Ormeneta, Minister of Foreign Affairs declare that, desirous of eliminating all controversies between the two chancelries, and in order to bring about the best and most cordial relations between their respective countries, have resolved to settle in a friendly and simple manner the claims of the Bolivian subjects for damages and losses sustained during the civil war of 1891, pending before the Chilean Government, under the auspices of the Bolivian Legation, and have agreed upon the following articles:

ARTICLE I

The claims pending on the part of the Bolivian subjects for damages and losses occasioned either by the military forces or the authorities

¹ Spanish: *Ministerio de Relaciones de Bolivia*, 1908, *Anexos*, p. 99.

The instrument makes no provision for ratification or exchange.

of Chile during the civil war of 1891, supported by the Legation of Bolivia, shall be submitted to the arbitral decision of the diplomatic representative of Her Britannic Majesty residing in Santiago, that he may judge of the origin and legality of them and determine the amount of the indemnities due.

ARTICLE II

For this purpose as soon as the appointment shall have been accepted the cases pending before the Government of Chile, together with the proofs, documents and reports which the parties interested in the claims deem necessary shall be placed before the said representative of Her Britannic Majesty.

ARTICLE III

This proof must be presented within the period of three months.

ARTICLE IV

The arbiter designated in the present agreement shall adjudicate the aforementioned claims within such period as he may deem necessary, both governments being concerned that it shall be done in the briefest possible time.

ARTICLE V

If for any reason the representative of Her Britannic Majesty should not be able to exercise the office of arbiter which is hereby offered to him, another diplomatic agent shall by mutual agreement be named to take his place.

ARTICLE VI

The indemnities awarded by the arbiter shall be paid by the Government of Chile within the period of six months, to the claimants or to those representing their rights.

In faith of which, the undersigned have signed the present agreement in duplicate and affixed their seals thereto.

Done at Santiago, on the thirty-first day of the month of May of the year one thousand nine hundred.

[Here follow signatures.]

No. 158

MEXICO—NICARAGUA

*Provision for the arbitration of disputes concerning a treaty of commerce and navigation.—Signed at Mexico, November 6, 1900*¹

ARTICLE XII

Any questions or controversies on the subject of the interpretation, application, or execution of the present treaty, which can not be decided amicably, shall be submitted to the decision of a board of arbitrators. Each of the two high contracting parties shall appoint an arbitrator, and these two arbitrators shall appoint a third. If an agreement can not be arrived at with regard to a third arbitrator, the latter shall be appointed by the government of some third state, to be selected by the high contracting parties.

No. 159

MEXICO—UNITED STATES

*Convention for the settlement of boundary disputes by a commission with a provision for ultimate arbitration.—Signed at Washington, November 21, 1900*²

Whereas the United States of America and the United States of Mexico desire to give full effect to the provisions of the Convention concluded and signed in Washington, March 1, 1889, to facilitate the execution of the provisions contained in the treaty signed by the two high contracting parties on the twelfth of November 1884, and to avoid the difficulties arising from the changes which are taking place in the beds of the Bravo del Norte and Colorado Rivers in those parts which serve as a boundary between the two republics;

And whereas the period fixed by Article IX of the convention of March 1, 1889, extended by the conventions of October 1, 1895, November 6, 1896, October 29, 1897, December 2, 1898, and December 22, 1899, expires on the twenty-fourth of December 1900;

¹ English: *British and Foreign State Papers*, vol. xciv, p. 1313.

Spanish: *Tratados y Convenciones Vigentes de Mexico*, 1909, vol. II, p. 63.

Ratifications exchanged at Mexico, July 11, 1903.

² English: *United States Statutes at Large*, vol. 31, p. 1936.

Spanish: *Tratados y Convenciones Vigentes de Mexico*, 1909, vol. I, p. 307.

Supplementary to and indefinitely extending that of March 1, 1889, No. 116, *ante*, p. 184.
Ratifications exchanged, December 24, 1900.

And whereas the two high contracting parties deem it expedient to indefinitely continue the period fixed by Article IX of the convention of March 1, 1889, and by the sole article of the convention of October 1, 1895, that of November 6, 1896, that of October 29, 1897, that of December 2, 1898, and that of December 22, 1899, in order that the International Boundary Commission may be able to continue the examination and decision of the cases submitted to it, they have, for that purpose, appointed their respective plenipotentiaries, to wit:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of the United States of Mexico, Manuel de Azpíroz, Ambassador Extraordinary and Plenipotentiary of the United States of Mexico at Washington;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following article:

SOLE ARTICLE

The said convention of March 1, 1889, as extended on the several dates above mentioned, and the Commission established thereunder shall continue in force and effect indefinitely, subject, however, to the right of either contracting party to dissolve the said Commission by giving six months' notice to the other; but such dissolution of the Commission shall not prevent the two governments from thereafter agreeing to revive the said Commission, or to reconstitute the same, according to the terms of the said convention; and the said convention of March 1, 1889, as hereby continued, may be terminated twelve months after notice of a desire for its termination shall have been given in due form by one of the two contracting parties to the other.

This convention shall be ratified by the two high contracting parties in conformity with their respective constitutions, and the ratifications shall be exchanged in Washington as soon as possible.

In testimony whereof, we, the undersigned, by virtue of our respective powers, have signed this convention in duplicate, in the English and Spanish languages, and have affixed our respective seals.

Done in the City of Washington on the twenty-first day of November, one thousand nine hundred.

[Here follow signatures.]

No. 160

BOLIVIA—PERU

General arbitration treaty.—Signed at La Paz, November 21, 1901¹

The President of the Republic of Bolivia and the President of the Republic of Peru, desiring to draw closer the bonds which exist between the two states, by establishing arbitration in the relations of the two republics, have for that purpose named as their plenipotentiaries:

His Excellency the President of the Republic of Bolivia, Dr. Federico Diez de Medina, his Minister for Foreign Relations; and His Excellency the President of the Republic of Peru, Dr. Felipe de Osma, his Envoy Extraordinary and Minister Plenipotentiary, who have concluded the following treaty of arbitration:

ARTICLE I

The high contracting parties pledge themselves to submit to arbitration all the controversies hitherto pending, and those which, while the present treaty is in force, may arise between them, whatever may be their nature and causes, provided that it has been found impossible to settle them by direct negotiation.

ARTICLE II

In each case that may arise the contracting parties shall conclude a special agreement for the purpose of determining the subject-matter of the controversy, and fixing the points that are to be settled, the extent of the powers of the arbitrators, and the procedure to be observed.

ARTICLE III

In case the high contracting parties do not succeed in agreeing on the points referred to in the foregoing article, the arbitrator shall be authorized to determine, in view of the claims of both parties, the points of fact and of law that are to be decided for the settlement of the controversy, and to establish the mode of procedure to be followed.

ARTICLE IV

The high contracting parties agree that the arbitrator shall be the permanent court of arbitration that may be established in virtue of

¹ English: *American Journal of International Law*, Supplement, vol. III, p. 378.

Spanish: de Martens, *Nouveau recueil*, 3d series, vol. III, p. 47.

Ratifications exchanged at La Paz, December 29, 1903.

the decisions adopted by the Pan-American Conference now sitting in the City of Mexico.

ARTICLE V

For these two cases: (a) if the court referred to in the foregoing article shall not be created, and (b) if there is need of having recourse to arbitration before that court shall be created, the high contracting parties agree to designate as arbitrator the Government of the Argentine Republic, that of Spain, and that of the United Mexican States for the performance of this duty, one to act in case of the disability of the other, and in the order in which they are named.

ARTICLE VI

If, while the present treaty is in force, and in the two contingencies referred to in the foregoing article, distinct cases for arbitration shall arise, they shall be successively submitted for decision to the aforesaid governments in the order above established.

ARTICLE VII

The arbitrator shall further be competent:

1. To pass upon the regularity of his appointment, the validity of the agreement, and the interpretation thereof.
2. To adopt such measures as may be necessary, and to settle all difficulties that may arise in the course of the debate. Concerning questions of a technical or a scientific character that may arise during the debate, the opinion of the Royal Geographical Society of London or that of the International Geodetic Institute of Berlin shall be asked.
3. To designate the time in which he shall perform his arbitral functions.

ARTICLE VIII

The arbitrator shall decide in strict obedience to the provisions of international law, and, on questions relating to boundary, in strict obedience to the American principle of *uti possedetis* of 1810, whenever, in the agreement mentioned in Article II, the application of the special rules shall not be established, or in case the arbitrator shall (not?) be authorized to decide as an amicable referee.

ARTICLE IX

The arbitral award shall decide, definitely, every point in dispute, stating the reasons therefor. It shall be prepared in duplicate, and

notice thereof shall be given to each of the parties through its representative before the arbitrator.

ARTICLE X

The award, legally pronounced, shall decide, within the limits of its capacity, the contest between the parties.

ARTICLE XI

The arbitrator shall fix, in his award, the time within which it is to be executed.

ARTICLE XII

No appeal from the award shall be allowed, and its execution is intrusted to the honor of the nations that sign this treaty.

Nevertheless, an appeal for revision of the award shall be admissible before the arbitrator who pronounced it, provided that such appeal be taken before the expiration of the time fixed for its execution, in the following cases:

1. If the award has been pronounced on the basis of a false or altered document.

2. If the award has been, either in whole or in part, the consequence of an error in fact resulting from the proceedings or documents of the case.

ARTICLE XIII

An appeal for revision shall in no case be interposed after six months from the time when notice of the decision shall have been given.

ARTICLE XIV

The high contracting parties shall appoint their representatives for the proceedings, shall place at the disposal of the arbitrator all the information in their power, and shall pay their own expenses and one-half of the general expenses of the arbitration.

ARTICLE XV

The same arbitrator who pronounced the decision shall decide concerning such questions as may arise in the execution thereof.

ARTICLE XVI

This treaty shall remain in force for ten years, reckoned from the date of the exchange of its ratifications. Unless it shall have been

denounced six months before its expiration it shall continue in force ten years longer, and so successively.

ARTICLE XVII

The ratifications of this treaty shall be exchanged at La Paz or at Lima within one year from its date.

In testimony whereof, the undersigned sign and seal this treaty in duplicate, in the city of La Paz, on the twenty-first day of the month of November one thousand nine hundred and one.

[Here follow signatures.]

No. 161

SALVADOR—UNITED STATES

*Agreement for the arbitration of certain claims of citizens of the United States against the Government of Salvador.—Signed at Washington, December 19, 1901*¹

The United States of America and the Republic of Salvador, through their representatives, John Hay, Secretary of State of the United States of America, and Don Rafael Zaldivar, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Salvador, have agreed upon and signed the following protocol:

Whereas, the United States of America, on behalf of the Salvador Commercial Company and of any and all of its citizens as described above, claim indemnity from the Government of Salvador for damages alleged to have been caused to such stockholders, as mentioned either in said memorial, in the correspondence between the two governments or in the report of the Solicitor of the Department of State, made to the Secretary of State; and

Whereas, the Government of Salvador denies any liability either to the Salvador Commercial Company or to any such citizens by reason of the acts and alleged grievances above referred to;

It is therefore agreed between the two governments:

¹ English and Spanish: *United States Treaty Series*, No. 400.

The instrument provides for ratification only by the Government of Salvador. The date of ratification is not at hand; but that it was ratified may safely be inferred from the fact that the agreement was to be deemed null and void unless the Government of Salvador should before March 1, 1902, give notice of its ratification, and there is evidence that it did not thus become void since an award was rendered under the agreement on May 8, 1902. Malloy, *Treaties and Conventions of the United States*, vol. II, p. 1570.

ARTICLE I

That the said questions of law and fact brought in issue between the two governments shall be referred to the decision of the Honorable Henry Strong, Chief Justice of the Dominion of Canada; the Honorable Don M. Dickinson, of Detroit, Michigan; and the Honorable Dr. David Castro, Chief Justice of the Supreme Court of Salvador, whose award in writing and stating the grounds of the decision shall be final and conclusive.

ARTICLE II

The arbitration tribunal shall sit at Washington, D. C., and shall hold its first session not later than the first day of April, 1902. A majority of the arbitrators shall be competent to act as well as to decide on all matters and questions submitted to the arbitral tribunal. Should either said Strong, Dickinson or Castro be unable to serve as arbitrator, in that event the place of the former shall be filled by agreement of the two governments and of either of the two latter by the United States and Salvador respectively.

ARTICLE III

That within eighty days from the date of the signing of this protocol, each party shall furnish to the other and to each of the arbitrators a copy of the said memorial and copies of all the documents, papers, accounts, official correspondence and other evidence on file at their respective foreign offices relating to said claims, and of all affidavits of their respective witnesses relating thereto, and the Department of State of the United States shall include among the documents thus transmitted by it copies of the report of its Solicitor in said case; and each party shall furnish in the manner aforesaid all books of account, contracts and papers of the "El Triunfo Company Limited" which may be in its possession or control: *Provided*, That said arbitration tribunal may request either government to furnish such additional evidence as it may deem necessary in the interests of justice, and each government agrees to comply with said request; it may, also, in its discretion, allow all such pleadings to be filed as may be conducive to the full presentation and trial of the claims of the interested parties.

ARTICLE IV

The arbitration tribunal shall have full power to regulate the procedure and to take such action and make any such order as it

may find necessary in the interests of justice. Each government agrees to abide by such determination, and in default thereof, the said tribunal may proceed in such manner and at such times as it may determine, in order to close the proofs and make final and complete award. It shall also have power to appoint such officials to render such clerical and other assistance as it may find needful and fix the stipend therefor, as well as to provide for payment by the parties of all expenses incident to the arbitration.

ARTICLE V

Each of said governments by their respective counsel, and the said stockholders by their attorney, may orally argue said cause and may severally submit to the said tribunal written arguments, copies of which shall at the same time be furnished to counsel of the other parties, with the right to reply, touching the questions of law and fact in issue, within thirty days from the date limited for the submission of the evidence; but the said tribunal shall not for such purpose in any event delay its decision beyond two months from the date of the submission to it of the evidence aforesaid, unless for good cause said tribunal shall find a longer period necessary, which shall in no event exceed three months.

ARTICLE VI

If said tribunal finds that any liability is established, it shall have full power to grant complete, just and legal relief to the parties; the damages awarded shall be fully compensatory but shall not include any which are merely speculative or imaginary. The tribunal may also pass upon the right of claimant to recover costs and reasonable attorney's fees and the award may bear interest at the rate of six per cent per annum from the date when the damages are shown to have occurred. It shall bear interest at the rate of six per cent per annum from the date of its rendition until paid.

ARTICLE VII

The award, if any, shall be payable, in American gold, as soon as the National Assembly of Salvador shall authorize the payment; but said authorization shall be made at its next ensuing regular session, in February, 1903. An extension of the time of its payment may be granted by the Government of the United States.

ARTICLE VIII

Reasonable compensation to the arbitrators for their services and all expenses incident to the arbitration shall be allowed and paid in equal moieties by said governments.

ARTICLE IX

This protocol shall be submitted for approval and ratification by the Congress of the Republic of Salvador. When so approved and ratified, the Government of Salvador will immediately notify the Government of the United States thereof. Unless so approved and ratified and such notice is given by the Government of Salvador on or before March 1, 1902, this protocol shall be deemed null and void; and the United States will be at liberty to proceed diplomatically.

Done in quadruplicate in English and Spanish at Washington, this nineteenth day of December, 1901.

[Here follow signatures.]

No. 162

COSTA RICA—HONDURAS—NICARAGUA—SALVADOR

*Treaty of peace and general arbitration.—Signed at Corinto, January 20, 1902*¹

The Governments of Costa Rica, Salvador, Honduras, and Nicaragua, desiring to contribute, by all the means in their power, to the maintenance of the peace and good harmony which exists and should exist between them, have met to celebrate a convention of peace and obligatory arbitration; and to this effect have named for their respective plenipotentiaries:

The Government of Costa Rica, His Excellency Attorney Don Leonidas Pacheco, Minister of Foreign Affairs;

The Government of Salvador, His Excellency Dr. Don Salvador Rodríguez, Under Secretary of State in the office of Foreign Affairs;

The Government of Honduras, His Excellency Dr. Don César Bonilla, Minister of Foreign Affairs;

The Government of Nicaragua, His Excellency Dr. Don Fernando Sánchez, Minister of Foreign Affairs;

¹ Spanish: de Martens, *Nouveau recueil*, 2d series, vol. xxxi, p. 243.

The instrument provides that it should be ratified by the respective congresses but go into force without the necessity of exchanging ratifications. The dates of the various ratifications are not at hand. De Martens states that it was ratified, but gives no dates.

Who, after having communicated their full powers and found them in good and due form, have agreed upon the following stipulations:

ARTICLE I

It is declared that the present convention has for its object the incorporation, in the form of a public treaty, of the conclusions to which Their Excellencies, President Don Rafael Iglesias, General Don Tomás Regalado, General Don Terencio Sierra and General Don José Santos Zelaya have arrived in the various conferences which they have celebrated in this port, with the sole object of maintaining and securing, by all possible means, the peace of Central America.

ARTICLE II

The contracting governments establish the principle of obligatory arbitration to settle all difficulties or questions which might present themselves between the contracting parties, binding themselves, in consequence, to submit them to a tribunal of Central American arbiters.

ARTICLE III

Each one of the contracting parties shall name an arbiter and a substitute to constitute the tribunal.

The arbiters shall retain their office for one year, counting from the date of their acceptance, being eligible to reelection.

ARTICLE IV

The arbiters of the states between which a conflict may exist shall not form part of the tribunal for the judgment of the case in question, it being left entirely with the arbiter or arbiters of the other states.

ARTICLE V

If, because of there being an equal number of votes, there should be no decision, the tribunal shall choose a third by lot from among the respective substitutes. The third arbiter must necessarily adhere to one of the opinions already given.

ARTICLE VI

As soon as a difficulty or question arises between two or more states, their respective governments shall communicate it to the other signatories of the present convention.

ARTICLE VII

It is established and recognized by the contracting governments that each and every one of them shall have the right to offer without delay, separately or conjointly, their good offices to the governments of the states in controversy, even without previous acceptance of these, and although they shall not have been notified of the difficulty or question pending.

ARTICLE VIII

Having exhausted the friendly offices without satisfactory result, the government or governments which shall have exercised them, shall announce that fact to the rest at the same time declaring the matter submitted to arbitration. This declaration shall be communicated, in the briefest time possible, to the member of the tribunal exercising the presidency of the same, in order that, within a period which may not exceed fifteen days, the tribunal may meet to consider and settle the dispute.

The installation of the tribunal shall be communicated by telegraph to the signatory governments, the contending parties being required to present their allegations within the fifteen days following.

ARTICLE IX

The tribunal shall give its decision within five days after the expiration of the period mentioned.

ARTICLE X

The difficulties which may arise on pending questions of limits or the interpretation or execution of treaties of limits, may be submitted by the interested governments to the judgment and decision of a foreign arbiter of American nationality.

ARTICLE XI

The governments of the states in dispute solemnly agree not to perform any act of hostility, warlike preparation, or mobilization of forces, in order that the settlement of the difficulty or question by the means established in the present convention may not be interfered with.

ARTICLE XII

The presidency of the arbitral tribunal shall be exercised alternately in annual periods, by each one of its members, following the

alphabetical order of the states which compose it; its exercise belonging the first year to the Costa Rican arbiter, the second to the one from El Salvador and so on successively.

When, by the event foreseen in Article IV, the member who exercises the presidency of the tribunal shall be prevented from participating, the contingent presidency for the case in question, shall be exercised by the arbiter who shall be qualified according to the order of precedence established in the foregoing paragraph.

The tribunal shall exercise its functions in the capital of the state to which the presiding arbiter belongs.

ARTICLE XIII

The arbitral tribunal shall impose all those conditions relative to the order of procedure which it considers necessary for the complete fulfilment of the very high mission intrusted to it by this treaty.

ARTICLE XIV

In order to prevent the abuses against the peace and public tranquillity of one state which might be committed by political emigrants of another, the contracting governments agree to withdraw from frontier places those emigrants in respect of which anxiety in the matter is felt by the interested government.

ARTICLE XV

With the object of harmonizing as far as possible the ideas and tendencies of the governments of the signatory states in everything which has to do with maintaining and strengthening the ties of Central American fraternity and the good understanding between them, and as long as permanent legations are not established for such purposes between the contracting states, the appointment of consuls general of each one of the states to all the others is recommended, who shall have, at the same time, the character of confidential agents of their respective governments.

ARTICLE XVI

The present convention shall be submitted to the ratification of the respective congresses in the shortest time possible and, provided it is ratified by all of them, shall enter into force thirty days after, without necessity of exchange.

ARTICLE XVII

For the installation of the arbitral tribunal established by this convention, the fifteenth day of September of the current year is assigned, the anniversary of Central America.

ARTICLE XVIII

In the desire that the present convention may bind together all the states of Central America, the signatory governments will invite, conjointly or separately, the Government of the Republic of Guatemala to adhere to its stipulations if it shall desire to do so.

In faith whereof, we have signed four copies of equal tenor, in the port of Corinto, Republic of Nicaragua, on the twentieth day of the month of January, one thousand nine hundred and two.
[Here follow signatures.]

No. 163

ARGENTINA—BOLIVIA—DOMINICAN REPUBLIC—
GUATEMALA—MEXICO—PARAGUAY—PERU—
SALVADOR—URUGUAY

*General obligatory arbitration treaty.—Signed at the Second Pan-American Conference, Mexico, January 29, 1902*¹

The undersigned delegates from the Argentine Republic, Bolivia, Dominican Republic, Guatemala, El Salvador, Mexico, Paraguay, Peru, and Uruguay, to the Second American International Conference assembled in the City of Mexico, who are duly authorized by their respective governments, have agreed to the following articles:

ARTICLE I

The high contracting parties bind themselves to submit to the decision of arbitrators all disputes that exist or may arise between them, which they may not be able to settle by diplomatic means, whenever, in the exclusive judgment of any of the interested nations,

¹ English; Darby, *International Tribunals*, (1904 ed.), p. 726.

Spanish: *Tratados y Convenciones Vigentes de Mexico*, (1904), p. 479.

The instrument provided that exchange of ratifications would be unnecessary, but that it would come into force as soon as three of the signatory states should announce their ratifications to the Government of Mexico. It was ratified by the following four: Salvador, May 28, 1902; Guatemala, August 25, 1902; Uruguay, January 31, 1903; Mexico, April 17, 1903; and proclaimed by Mexico April 22, 1903. See *British and Foreign State Papers*, vol. xcv, p. 1012.

such disputes do not affect the national independence or the national honor.

ARTICLE II

Neither the national independence nor the national honor shall be considered as imperilled by any dispute about diplomatic privileges, boundaries, rights of navigation, or the validity, interpretation, and fulfilment of treaties.

ARTICLE III

By virtue of the right recognized by Article XXVI of the Convention for the pacific settlement of international disputes, signed at The Hague on the twenty-ninth of July, 1899, the high contracting parties agree to submit to the decision of the Permanent Court of Arbitration, established by the said convention, all the disputes, to which reference is made in this treaty, unless any of the parties should prefer that a special tribunal should be organized.

In the event of their submission to the Permanent Court of Arbitration at The Hague, the high contracting parties shall comply with the provisions of the said convention in so far as it relates to the organization of the arbitral tribunal, as well as in respect to the procedure to which the latter shall be subject.

ARTICLE IV

Whenever it may be necessary, from any cause whatever, to organize a special tribunal, either because any one of the parties may desire it or by reason of the Permanent Court of Arbitration at The Hague not being open to them, the procedure to be followed shall be established on the signing of the arbitration agreement. The tribunal shall determine the date and place of its meetings and the language to be used, and shall in every case be invested with the power to determine all questions relating to its own jurisdiction, and even those referring to procedure on matters not provided for in the arbitration agreement.

ARTICLE V

If the high contracting parties, on the organization of the special tribunal, should not have agreed as to the appointment of an arbitrator, the tribunal shall consist of three judges. Each state shall appoint an arbitrator, and these shall designate an umpire. Should they be unable to agree with reference to this designation, it shall be made by the chief of a third state, who shall be nominated by the

arbitrators appointed by the parties. Should they be unable to agree as to the last-mentioned appointment, each of the parties shall designate a different power, and the election of the umpire shall then be made by the two powers so designated.

ARTICLE VI

The high contracting parties stipulate that, in case of grave disagreement or conflict between two or more of them, such as to render war imminent, recourse shall be had, so far as circumstances permit, to the good offices or mediation of one or more of the friendly powers.

ARTICLE VII

Independently of this recourse, the high contracting powers consider it useful that one or more powers that are not concerned in the conflict, should spontaneously offer, so far as opportunity is presented, their good offices or their mediation to the states at variance.

The powers not concerned in the conflict have the right of offering their good offices or mediation, even during the course of hostilities.

The exercise of this right can never be considered by either of the contending parties as an unfriendly act.

ARTICLE VIII

The office of mediator consists in reconciling the opposing claims, and appeasing the resentments which may have arisen between the nations in conflict.

ARTICLE IX

The functions of the mediator cease from the moment when it is announced, either by one of the contending parties, or by the mediator himself, that the means of conciliation proposed by the latter are not accepted.

ARTICLE X

Good offices and mediation, whether at the request of the parties in conflict or on the initiative of powers who have no part in it, are only in the nature of advice, and never of obligatory force.

ARTICLE XI

The acceptance of mediation can not have the effect, in the absence of an agreement to the contrary, of interrupting, retarding, or hindering mobilization or other measures preparatory to war. If mediation should take place after the opening of hostilities, it shall

not, in the absence of an agreement to the contrary, interrupt the course of the military operations.

ARTICLE XII

In case of grave differences which threaten to disturb the peace, and whenever the interested powers are unable to agree as to the election or acceptance of one of the friendly powers as mediator, the disputing states are recommended to select a power, which shall be specially entrusted with the mission of entering into direct relations with a power chosen by the other interested nation, with the object of preventing the rupture of pacific relations.

During the continuance of this mandate, the duration of which, unless the contrary is stipulated, can not exceed thirty days, the contending states shall cease all direct negotiation with reference to the dispute, which is to be considered as referred, exclusively, to the mediating powers.

Should these friendly powers be unable to come to an agreement as to the proposal of a solution acceptable to those who are in conflict, they shall designate a third, to which the mediation shall be entrusted.

In case of actual rupture of pacific relations, this third power shall remain charged with the mission of profiting by every opportunity to reestablish peace.

ARTICLE XIII

In disputes of an international character, arising from a difference in their estimate of matters of fact, the signatory republics consider it useful that the parties which have not been able to agree by diplomatic means should institute, as far as circumstances will permit, an international commission of inquiry, intrusted with the duty of facilitating the settlement of these disputes, by clearing up the questions of fact, by means of an impartial and conscientious investigation.

ARTICLE XIV

International commissions of inquiry are constituted by special convention between the parties in litigation. The agreement shall specify the facts that are to be the subject matter of examination, as well as the extent of the powers of the commissioners, and shall regulate the procedure to which they must adhere. The inquiry shall proceed by hearing both parties in turn, and the procedure and time allowed for the investigation, if not fixed by the agreement, shall be determined by the commission itself.

ARTICLE XV

International commissions of inquiry shall be constituted, unless it is stipulated to the contrary, in the same manner as the arbitration tribunal.

ARTICLE XVI

It is obligatory on the part of the powers in litigation to furnish the international commission of inquiry, to the fullest extent they may consider possible, all the means and facilities necessary for the complete knowledge and exact appreciation of the facts in question.

ARTICLE XVII

The above mentioned commissions shall be limited to the determination of matters of fact, and to the expression of opinion on those that are merely technical.

ARTICLE XVIII

The international commission of inquiry shall present its report to the powers that appointed it, signed by all the members of the commission. This report, being limited to the investigation of matters of fact, shall by no means have the character of an arbitral award, and shall leave the contending powers in entire freedom as to the value they shall attach to it.

ARTICLE XIX

The constitution of commissioners of inquiry may be included in the agreements (*compromis*) of arbitration, as a preliminary procedure, in order to determine the facts that are to form the subject of adjudication.

ARTICLE XX

The present treaty does not annul any previous ones existing between two or more of the contracting parties, in so far as they give greater extension to obligatory arbitration. Nor does it alter the stipulations on arbitration relating to specific questions that have already arisen, nor the course of the arbitration procedure that is being followed with respect to them.

ARTICLE XXI

This treaty shall become operative, without the necessity of the exchange of ratifications, as soon as three at least of the signatory states shall notify their approval to the Government of the United States of Mexico, which will communicate it to the other governments.

ARTICLE XXII

Non-signatory powers may, at any time, give their adhesion to the present treaty. If any one of the signatory powers shall desire to regain its liberty it must denounce the treaty, but such denunciation can take effect solely in the case of the power making it, and then only after the expiration of one year from the denunciation. Should the denouncing power have any questions of arbitration pending at the expiration of the year, the denunciation shall not take effect in regard to the case still to be decided.

General provisions

- I. The present treaty shall be ratified as soon as possible.
- II. The ratifications shall be forwarded to the Ministry for Foreign Affairs of Mexico, where they shall be deposited.
- III. The Mexican Government shall send a certified copy of each ratification to the other contracting governments.

In witness hereof, they (the delegates) have signed the present treaty, and have respectively affixed their seals thereto.

Done at the City of Mexico, the twenty-ninth of January, 1902, in a single original, which shall remain deposited at the Ministry for Foreign Affairs of the United States of Mexico, certified copies of which shall be sent through diplomatic channels to the contracting governments.

[Here follow signatures.]

No. 164

ARGENTINA — BOLIVIA — CHILE — COLOMBIA — COSTA RICA — DOMINICAN REPUBLIC — ECUADOR — GUATEMALA — HAITI — HONDURAS — MEXICO — NICARAGUA — PARAGUAY — PERU — SALVADOR — UNITED STATES — URUGUAY

*International treaty providing for the arbitration of pecuniary claims.—
Signed at the Second Pan American Conference, Mexico, January 30, 1902*¹

Their Excellencies the Presidents of the Argentine Republic, Bolivia, Colombia, Costa Rica, Chile, Dominican Republic, Ecuador, Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru and Uruguay,

Desiring that their respective countries should be represented at the Second International American Conference, sent thereto duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following delegates:

For the Argentine Republic: Their Excellencies Antonio Bermejo, Martín García Mérou, Lorenzo Anadon.

For Bolivia: His Excellency Fernando E. Guachalla.

For Colombia: Their Excellencies Carlos Martinez Silva, General Rafael Reyes.

For Costa Rica: His Excellency Joaquin Bernardo Calvo.

For Chile: Their Excellencies Alberto Blest Gana, Emilio Bello Codecido, Joaquin Walker Martinez, Augusto Matte.

For the Dominican Republic: Their Excellencies Federico Henriquez y Carvajal, Luis Felipe Carbo, Quintin Gutierrez.

For Ecuador: His Excellency Luis Felipe Carbo.

¹ English and Spanish: *United States Statutes at Large*, vol. 34, p. 2845.

Extended by the convention signed August 13, 1906, No. 188 *post* p. 362, and replaced by that signed August 11, 1910, No. 227 *post*, p. 469.

The instrument provided that it should come into force among those ratifying it as soon as five had ratified and given notice to the Mexican Government of their ratification, no exchange being necessary. It was ratified as follows: by Guatemala, April 25, 1902; by Salvador, May 19, 1902; by Peru, October 29, 1903; by Honduras, July 6, 1904; by the United States, January 28, 1905; by Mexico, May 1, 1905; by Costa Rica, December 4, 1908; and by Colombia, January 15, 1909.

The convention of August 13, 1906, renewing this convention was signed by Brazil, Cuba, and Panama, which had not been parties to the original, and Haiti, which had signed the earlier, did not adhere to the latter. See No. 188, *post*, p. 362. Bolivia was the only one of the American republics which was not a party to the convention of August 11, 1910.

For Salvador: Their Excellencies Francisco A. Reyes, Baltasar Estupinián.

For the United States of America: Their Excellencies Henry G. Davis, William I. Buchanan, Charles M. Pepper, Volney W. Foster, John Barrett.

For Guatemala: Their Excellencies Antonio Lazo Arriaga, Colonel Francisco Orla.

For Haiti: His Excellency J. N. Léger.

For Honduras: Their Excellencies José Leonard, Fausto Dávila.

For Mexico: Their Excellencies Genaro Raigosa, Joaquín D. Casasús, José López Portillo y Rojas, Emilio Pardo, jr., Pablo Macedo, Alfredo Chavero, Francisco L. de la Barra, Manuel Sánchez Mármol, Rosendo Pineda.

For Nicaragua: His Excellency Luis F. Corea, His Excellency Fausto Dávila.

For Paraguay: His Excellency Cecilio Baez.

For Peru: Their Excellencies Isaac Alzamora, Alberto Elmore, Manuel Alvarez Calderón.

For Uruguay: His Excellency Juan Cuestas;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua and Paraguay, who act *ad referendum*, have agreed to celebrate a treaty to submit to the decision of arbitrators pecuniary claims for damages that have not been settled by diplomatic channel, in the following terms:

ARTICLE I

The high contracting parties agree to submit to arbitration all claims for pecuniary loss or damage which may be presented by their respective citizens and which can not be amicably adjusted through diplomatic channels and when said claims are of sufficient importance to warrant the expenses of arbitration.

ARTICLE II

By virtue of the faculty recognized by Article XXVI of the convention of The Hague for the pacific settlement of international disputes, the high contracting parties agree to submit to the decision of the Permanent Court of Arbitration established by said convention, all controversies which are the subject matter of the present

treaty, unless both parties should prefer that a special jurisdiction be organized, according to Article XXI of the convention referred to.

If a case is submitted to the Permanent Court of The Hague, the high contracting parties accept the provisions of the said convention, in so far as they relate to the organization of the arbitral tribunal, and with regard to the procedure to be followed, and to the obligation to comply with the sentence.

ARTICLE III

The present treaty shall not be obligatory except upon those states which have subscribed to the convention for the pacific settlement of international disputes, signed at The Hague, July 29, 1899, and upon those which ratify the protocol unanimously adopted by the republics represented in the Second International Conference of American States, for their adherence to the conventions signed at The Hague, July 29, 1899.

ARTICLE IV

If, for any cause whatever, the Permanent Court of The Hague should not be opened to one or more of the high contracting parties, they obligate themselves to stipulate, in a special treaty, the rules under which the tribunal shall be established, as well as its form of procedure, which shall take cognizance of the questions referred to in Article I of the present treaty.

ARTICLE V

This treaty shall be binding on the states ratifying it, from the date on which five signatory governments have ratified the same, and shall be in force for five years. The ratification of this treaty by the signatory states shall be transmitted to the Government of the United States of Mexico, which shall notify the other governments of the ratifications it may receive.

In testimony whereof the plenipotentiaries and delegates also sign the present treaty, and affix the seal of the Second International American Conference.

Made in the City of Mexico the thirtieth day of January nineteen hundred and two, in three copies, written in Spanish, English and French, respectively, which shall be deposited with the Secretary of Foreign Relations of the Mexican United States, so that certified

copies thereof be made, in order to send them through the diplomatic channel to the signatory states.

[Here follow signatures.]

No. 165

ARGENTINA—BOLIVIA

General arbitration treaty.—Signed at Buenos Aires, February 3, 1902¹

The Governments of the Argentine Republic and of the Republic of Bolivia, animated by the common desire of deciding by friendly means any question which might arise between the two governments, have resolved to celebrate a general treaty of arbitration; to which end they name as their plenipotentiaries, to wit:

The Most Excellent President of the Argentine Republic, his Minister in the Department of Foreign Affairs and Worship, Dr. Don Amancio Alcorta; and

The Most Excellent President of the Republic of Bolivia, his Envoy Extraordinary and Minister Plenipotentiary in the Argentine Republic, Dr. Don Juan C. Carrillo;

Who, after having communicated their full powers, which they found in good and due form, have agreed upon the following articles:

ARTICLE I

The high contracting parties bind themselves to submit to arbitral judgment all the controversies, of whatever nature, which for any reason whatsoever may arise between them, in as much as they do not affect the principles of the constitution of either country, and provided they can not be settled by means of direct negotiations.

ARTICLE II

Questions which may have been the object of definitive agreements between the parties may not be renewed in virtue of this treaty. In such cases, the arbitration shall be limited exclusively to the questions which may arise concerning the validity, interpretation and execution of such agreements.

ARTICLE III

In each occurring case the arbitral tribunal shall be constituted to decide the controversy raised. If there should be disagreement in the

¹ Spanish: *Tratados de Argentina* (1911), vol. II, p. 195.

Ratifications exchanged at Buenos Aires, January 27, 1903, the six months allowed for the exchange in the original instrument having been extended another six months by a protocol signed July 19, 1902.

constitution of the tribunal, the latter shall be composed of three judges. Each state shall name an arbiter and these shall designate the third. If they can not agree upon this designation, it shall be made by the chief of a third state, whom the arbiters named by the parties shall indicate. If an agreement can not be reached as to this last nomination, each party shall designate a different power and the election of the third arbiter shall be made by the two powers thus designated. The arbiter thus elected shall be of right president of the tribunal.

No person shall be named as third arbiter who has already served in this character in an arbitral judgment in accordance with this treaty.

ARTICLE IV

Not one of the arbiters can be a citizen of the contracting states, or domiciled in their territory. Neither can he have an interest in the questions which may be the object of the arbitration.

ARTICLE V

In case of one or more of the arbiters not accepting, renouncing or being otherwise prevented from attending, his substitute shall be provided in the same manner as adopted for his nomination.

ARTICLE VI

The points for arbitration shall be fixed by the contracting states who shall also determine the extent of the powers of the arbiters and any other circumstance relative to the procedure.

ARTICLE VII

In the absence of special stipulations between the parties, the tribunal shall have the power to designate the time and place of its sessions, outside of the territory of the contracting states, select the language to be employed, determine the methods of substantiation, the formalities and conduct prescribed to the parties, the proceedings to be followed, and in general all the measures which may be necessary for the proper exercise of its functions, and to resolve all the difficulties of procedure which may arise in the course of the debate.

The contracting parties obligate themselves to place at the disposal of the arbiters all the means of information available.

ARTICLE VIII

Each one of the parties may appoint one or more mandatories to represent it before the arbitral tribunal.

ARTICLE IX

The tribunal is competent to decide upon the regularity of its own constitution, the validity of the agreement and its interpretation. It is equally competent to decide the controversies which may arise between the parties in dispute as to whether the questions decided have or have not been points submitted to arbitral jurisdiction in the written agreement.

ARTICLE X

The tribunal shall decide in accordance with the principles of international law, provided the *compromis* does not impose the application of special rules or authorize the arbiters to decide as friendly advisers.

ARTICLE XI

The tribunal can not be formed without the concurrence of the three arbiters. In case the minority, duly cited, will not assist in the deliberations or other acts of procedure, the tribunal shall be formed by only the majority of the arbiters, record being made of the voluntary or unjustified absence of the minority.

The decision of the majority of the arbiters shall be considered as the award, but if the third arbiter should not accept the opinion of either of the arbiters named by the parties, his decision shall be final.

ARTICLE XII

The award shall decide definitively each point in litigation and shall state the facts upon which it is based.

It shall be drawn up in duplicate and signed by all the arbiters. If any one of them refuses to sign it, the others shall make mention of this circumstance in a special protocol, and the sentence shall go into force provided it is signed by the majority of the arbiters. The dissenting arbiter shall confine himself to recording his dissent when the award is signed, without expressing his reasons.

ARTICLE XIII

Each of the parties shall be notified of the award by means of its representative before the tribunal.

ARTICLE XIV

The award, legally pronounced, decides, within the limits of its power, the dispute between the parties.

ARTICLE XV

The tribunal shall state in the award the period within which it must be executed, being also competent to decide the questions which may arise as to the execution of the same.

ARTICLE XVI

The award is without appeal and its fulfilment is entrusted to the honor of the nations signatory to this agreement.

However, recourse to revision is allowed before the same tribunal which pronounces the award, provided the plea is offered, before the expiration of the period assigned for its execution, in the following cases:

1. If the award has been pronounced in virtue of a false or altered document.
2. If the award has been in whole or in part the consequence of an error of fact resulting from the arguments or documents of the case.

ARTICLE XVII

Each one of the parties shall pay its own expenses and half of the general expenses of the arbitral tribunal.

ARTICLE XVIII

The present treaty shall remain in force for ten years counting from the exchange of the ratifications. If not denounced six months before the expiration of this period, it shall be considered as renewed for another period of ten years and so on.

The present treaty shall be ratified and its ratifications exchanged in Buenos Aires, within six months of its date.

In faith whereof, the plenipotentiaries of the Argentine Republic and of the Republic of Bolivia have signed and sealed with their respective seals, in duplicate, the present treaty, in the City of Buenos Aires on the third day of February, one thousand nine hundred and two.

[Here follow signatures.]

No. 166

DOMINICAN REPUBLIC—UNITED STATES

*Agreement to arbitrate a certain claim of citizens of the latter against the government of the former.—Signed at Santo Domingo, April 28, 1902*¹

The Dominican Government and the Legation of the United States of America accredited to it being unable to come to an understanding with regard to the responsibility for the payment of the sum of two hundred and fifteen thousand eight hundred and twelve dollars American gold (\$215,812) which said Legation claims from the Dominican Government in favor of the heirs of J. Sala & Co. of New York for supplies of merchandise and other goods furnished at a former time by the commercial firm of J. Sala & Co. to General U. Heureaux, then President of the Dominican Republic, and the payment of which the Dominican Government positively refuses to make because it already paid the sum to the aforesaid General Heureaux, who acted as an intermediary between said Dominican Government and the aforementioned J. Sala & Co., it has been agreed upon between the parties to settle the matter before a tribunal of arbitration on the following conditions:

First. In order to constitute the said tribunal of arbitration, the Dominican Government shall appoint an arbitrator for the purpose and the heirs of J. Sala & Co. shall appoint another.

Secondly. It shall be the exclusive purpose of this tribunal to examine and decide whether the Dominican Government is or is not indebted to the heirs of J. Sala & Co. and whether the latter are or not the rightful creditors of the Dominican Government for the whole or part of the sum of \$215,812 American gold represented by bills for supplies furnished at a former time to General U. Heureaux, former President of the Republic.

Thirdly. Thirty days after the signature of the present agreement each of the interested parties shall notify the other of the appointment of its arbitrator.

¹ Manuscripts, Department of State, Washington, for both Spanish original and English translation.

The instrument makes no provision for ratifications or exchange of ratifications. The agreement was executed and the award is filed in the Department of State.

A separate convention signed on the same day as this provided for the settlement of several other claims of the same heirs of J. Sala and Company against the Dominican Government; and the fourth article of that convention provided for the arbitration of this claim since the Dominican Government refused to recognize its validity.

Fourthly. Sixty days afterwards at the latest, or before if voluntarily so agreed, the arbitrators shall meet at New York City and proceed to examine and decide the question.

Fifthly. The interested parties agree to immediately place in the hands of the arbitrators all the documents which they may deem suitable in the case, as well as to furnish all documents to the arbitrators which the latter may require in relation to the said question. The parties shall also be obliged to transmit to each other, through their attorneys, agents, or arbitrators, all documents which may be in the possession of either of them and which it may be suitable for the other to know, as well as the defenses, replications, and counter replications which may be presented in the trial. Such transmission shall take place in accordance with the general or special rules which the arbitrators may prescribe.

Sixthly. In case the arbitrators are unable to agree either on all or on one or more points of the question, they shall, after three formal disagreements on the same point, agree on the appointment of an umpire to decide the matter finally. In case they are unable to agree on the umpire within a period not exceeding fifteen days, this circumstance shall be made known by the arbitrators to the Dominican Government. The latter shall then request the Chief Justice of the Supreme Court of the United States to accept the office of umpire, or in case it is impossible for him to discharge the office, to appoint an umpire.

Seventhly. The umpire shall decide, if possible, within sixty days, hearing both parties in all their means of defense.

Eighthly. The expenses of the arbitration shall be borne equally by both parties, the attorneys' fees being paid by each party independently.

Ninthly. The award in this arbitration case shall be final and unappealable either before any court of any country or before an international tribunal.

Tenthly. The award shall be communicated in writing, accompanied by a copy of all the documents supporting it, simultaneously to the Dominican and United States Governments.

Done in duplicate, in the city of Santo Domingo, capital of the Dominican Republic, signed by the undersigned, and sealed with the official seal of each party, on the twenty-eighth day of April, one thousand nine hundred and two.

[Here follow signatures.]

No. 167

MEXICO—UNITED STATES

*Protocol of an agreement to settle by arbitration under the Hague Convention the claim known as "The Pious Fund of the Californias."—Signed at Washington, May 22, 1902*¹

Whereas, under and by virtue of the provisions of a convention entered into between the high contracting parties above named, of date July 4, 1868, and subsequent conventions supplementary thereto, there was submitted to the mixed commission provided for by said convention, a certain claim advanced by and on behalf of the prelates of the Roman Catholic Church of California against the Republic of Mexico for an annual interest upon a certain fund known as "The Pious Fund of the Californias," which interest was said to have accrued between February 2, 1848, the date of the signature of the Treaty of Guadalupe Hidalgo, and February 1, 1869, the date of the exchange of the ratifications of said Convention above referred to; and

Whereas, said mixed commission, after considering said claim, the same being designated as No. 493 upon its docket, and entitled Thaddeus Amat, Roman Catholic Bishop of Monterey, a corporation sole, and Joseph S. Alemany, Roman Catholic Bishop of San Francisco, a corporation sole, against the Republic of Mexico, adjudged the same adversely to the Republic of Mexico and in favor of said claimants, and made an award thereon of nine hundred and four thousand, seven hundred and 99/100 (904,700.99) dollars; the same, as expressed in the findings of said court, being for twenty-one years' interest of the annual amount of forty-three thousand and eighty and 99/100 (43,080.99) dollars upon seven hundred and eighteen thousand and sixteen and 50/100 (718,016.50) dollars, said award being in Mexican gold dollars, and the said amount of nine hundred and four thousand, seven hundred and 99/100 (904,700.99) dollars having been fully paid and discharged in accordance with the terms of said convention; and

¹ English: *United States Statutes at Large*, vol. 32, p. 1916.

Spanish: Same source, compared for correction in Spanish text of Article IX with Mexico, *Boletín de Relaciones Exteriores*, vol. xiv, p. 201.

The instrument makes no provision for ratifications or exchange thereof. The agreement was carried out and the award rendered, which was adverse to the contention of the Mexican Government.

Whereas, the United States of America on behalf of said Roman Catholic Bishops, above named, and their successors in title and interest, have since such award claimed from Mexico further instalments of said interest, and have insisted that the said claim was conclusively established, and its amount fixed as against Mexico and in favor of said original claimants and their successors in title and interest under the said first mentioned convention of 1868 by force of the said award as *res judicata*; and have further contended that apart from such former award their claim against Mexico was just, both of which propositions are controverted and denied by the Republic of Mexico, and the high contracting parties hereto, animated by a strong desire that the dispute so arising may be amicably, satisfactorily and justly settled, have agreed to submit said controversy to the determination of arbitrators, who shall, unless otherwise herein expressed, be controlled by the provisions of the international Convention for the pacific settlement of international disputes, commonly known as the Hague Convention, and which arbitration shall have power to determine:

1. If said claim, as a consequence of the former decision, is within the governing principle of *res judicata*; and,
2. If not, whether the same be just.

And to render such judgment or award as may be meet and proper under all the circumstances of the case.

It is therefore agreed by and between the United States of America, through their representative, John Hay, Secretary of State of the United States of America, and the Republic of Mexico, through its representative, Manuel de Azpiroz, Ambassador Extraordinary and Plenipotentiary to the United States of America for the Republic of Mexico as follows:

ARTICLE I

That the said contentions be referred to the special tribunal hereinafter provided, for examination, determination and award.

ARTICLE II

The special tribunal hereby constituted shall consist of four arbitrators (two to be named by each of the high contracting parties), and an umpire to be selected in accordance with the provisions of the Hague Convention. The arbitrators to be named hereunder shall be signified by each of the high contracting parties to the other within sixty days after the date of this protocol. None of those so named

shall be a native or citizen of the parties hereto. Judgment may be rendered by a majority of said court.

All vacancies occurring among the members of said court because of death, retirement or disability from any cause before a decision shall be reached, shall be filled in accordance with the method of appointment of the member affected as provided by said Hague Convention, and if occurring after said court shall have first assembled, will authorize in the judgment of the court an extension of time for hearing or judgment, as the case may be, not exceeding thirty days.

ARTICLE III

All pleadings, testimony, proofs, arguments of counsel and findings or awards of commissioners or umpire, filed before or arrived at by the Mixed Commission above referred to, are to be placed in evidence before the Court hereinbefore provided for, together with all correspondence between the two countries relating to the subject matter involved in this arbitration; originals or copies thereof duly certified by the departments of state of the high contracting parties being presented to said new tribunal. Where printed books are referred to in evidence by either party, the party offering the same shall specify volume, edition and page of the portion desired to be read, and shall furnish the Court in print the extracts relied upon; their accuracy being attested by affidavit. If the original work is not already on file as a portion of the record of the former Mixed Commission, the book itself shall be placed at the disposal of the opposite party in the respective offices of the Secretary of State or of the Mexican Ambassador in Washington, as the case may be, thirty days before the meeting of the tribunal herein provided for.

ARTICLE IV

Either party may demand from the other the discovery of any fact or of any document deemed to be or to contain material evidence for the party asking it; the document desired to be described with sufficient accuracy for identification, and the demanded discovery shall be made by delivering a statement of the fact or by depositing a copy of such document (certified by its lawful custodian, if it be a public document, and verified as such by the possessor, if a private one), and the opposite party shall be given the opportunity to examine the original in the City of Washington at the Department of State, or at the office of the Mexican Ambassador, as the case may be.

If notice of the desired discovery be given too late to be answered ten days before the tribunal herein provided for shall sit for hearing, then the answer desired thereto shall be filed with or documents produced before the court herein provided for as speedily as possible.

ARTICLE V

Any oral testimony additional to that in the record of the former arbitration may be taken by either party before any judge, or clerk of court of record, or any notary public, in the manner and with the precautions and conditions prescribed for that purpose in the rules of the Joint Commission of the United States of America, and the Republic of Mexico, as ordered and adopted by that tribunal August 10, 1869, and so far as the same may be applicable. The testimony when reduced to writing, signed by the witness, and authenticated by the officer before whom the same is taken, shall be sealed up, addressed to the court constituted hereby, and deposited so sealed up in the Department of State of the United States, or in the Department of Foreign Relations of Mexico to be delivered to the Court herein provided for when the same shall convene.

ARTICLE VI

Within sixty days from the date hereof the United States of America, through their agent or counsel, shall prepare and furnish to the Department of State aforesaid, a memorial in print of the origin and amount of their claim, accompanied by references to printed books, and to such portions of the proofs or parts of the record of the former arbitration, as they rely on in support of their claim, delivering copies of the same to the Embassy of the Republic of Mexico in Washington, for the use of the agent or counsel of Mexico.

ARTICLE VII

Within forty days after the delivery thereof to the Mexican Embassy the agent or counsel for the Republic of Mexico shall deliver to the Department of State of the United States of America in the same manner and with like references a statement of its allegations and grounds of opposition to said claim.

ARTICLE VIII

The provisions of Paragraphs VI and VII shall not operate to prevent the agents or counsel for the parties hereto from relying at the hearing or submission upon any documentary or other evidence

which may have become open to their investigation and examination at a period subsequent to the times provided for service of memorial and answer.

ARTICLE IX

The first meeting of the arbitral court hereinbefore provided for shall take place for the selection of an umpire on September 1, 1902, at The Hague in the quarters which may be provided for such purpose by the International Bureau at The Hague, constituted by virtue of the Hague Convention hereinbefore referred to, and for the commencement of its hearings September 15, 1902, is designated, or, if an umpire may not be selected by said date, then as soon as possible thereafter, and not later than October 15, 1902, at which time and place and at such other times as the court may set (and at Brussels if the court should determine not to sit at The Hague) explanations and arguments shall be heard or presented as the court may determine, and the cause be submitted. The submission of all arguments, statements of facts, and documents shall be concluded within thirty days after the time provided for the meeting of the court for hearing (unless the court shall order an extension of not to exceed thirty days) and its decision and award announced within thirty days after such conclusion, and certified copies thereof delivered to the agents or counsel of the respective parties and forwarded to the Secretary of State of the United States and the Mexican Ambassador at Washington, as well as filed with the Netherland Minister for Foreign Affairs.

ARTICLE X

Should the decision and award of the tribunal be against the Republic of Mexico, the findings shall state the amount and in what currency the same shall be payable, and shall be for such amount as under the contentions and evidence may be just. Such final award, if any, shall be paid to the Secretary of State of the United States of America within eight months from the date of its making.

ARTICLE XI

The agents and counsel for the respective parties may stipulate for the admission of any facts, and such stipulation, duly signed, shall be accepted as proof thereof.

ARTICLE XII

Each of the parties hereto shall pay its own expenses, and one-half of the expenses of the arbitration, including the pay of the arbitrators; but such costs shall not constitute any part of the judgment.

ARTICLE XIII

Revision shall be permitted as provided in Article LV of the Hague Convention, demand for revision being made within eight days after announcement of the award. Proofs upon such demand shall be submitted within ten days after revision be allowed (revision only being granted, if at all, within five days after demand therefor) and counterproofs within the following ten days, unless further time be granted by the Court. Arguments shall be submitted within ten days after the presentation of all proofs, and a judgment or award given within ten days thereafter. All provisions applicable to the original judgment or award shall apply as far as possible to the judgment or award on revision. *Provided* that all proceedings on revision shall be in the French language.

ARTICLE XIV

The award ultimately given hereunder shall be final and conclusive as to the matters presented for consideration.

Done in duplicate in English and Spanish at Washington, this twenty-second day of May, A. D. 1902.

[Here follow signatures.]

No. 168

ARGENTINA—CHILE

*General arbitration treaty.—Signed at Santiago, May 28, 1902*¹

The Minister for Foreign Affairs, Don José Francisco Vergara Donoso, and Don José A. Terry, Envoy Extraordinary and Minister

¹ English: de Martens, *Nouveau recueil*, 2d series, vol. xxxv, p. 297. •

Spanish: Wiese, *Tratados de Arbitramiento*, p. 238, with omitted portion supplied from *Tratados de Chile*, vol. vi (1913), p. 13.

Ratifications exchanged in Santiago, September 22, 1902.

On the same day on which this treaty of general arbitration was signed the same negotiators signed an agreement for the limitation of naval armaments. In Article I of that agreement there was a provision for the reduction of existing armaments. An exchange of notes between the negotiators, also bearing the same date, agreed that any differences which might arise with respect to the execution of the provision for the reduction of existing armaments should be decided by the arbiter in accordance with the provision of Article I of the arbitration treaty signed that day, here printed. The ratifications of the disarmament convention were exchanged on the same day on which the ratifications of this arbitration treaty were exchanged.

An explanatory protocol, signed July 10, 1902, agreed that it should not be necessary for either government to sell vessels in order to carry out the disarmament agreement, but that disarmament should be effected in other ways.

The same protocol agreed that the execution of treaties in force or of those resulting from them could not be considered matters for arbitration between the parties; and that neither government had any right to interfere with measures adopted by the other for giving effect to those treaties.

Plenipotentiary of the Argentine Republic, having met together at the Ministry for Foreign Affairs of Chile, with a view to settling the rules for deciding differences of any kind whatsoever which might tend to disturb the good relations existing between the two countries, and thereby consolidating the peace maintained up to the present, notwithstanding periodical alarms caused by the long dispute as to frontier delimitation, the Argentine Minister Plenipotentiary stated that the intention of his government, conformable to the international policy which it had always observed, was, to endeavor in every case to solve questions arising with other states in a friendly manner; that the Government of the Argentine Republic had obtained such a result by keeping itself within its rights and respecting to its full limits the sovereignty of other nations, without interfering in their internal affairs or in their external questions; that in consequence thereof intentions of territorial expansion could not be entertained; that his government would persist in this policy; and that, believing that they were interpreting the public opinion of their country, they made these solemn declarations, now that the moment had come for Chile and the Argentine Republic to remove all causes for trouble in their international relations.

The Minister for Foreign Affairs, on his part, declared that his government had always held, and still holds, those elevated views which the Minister of the Argentine Republic had just expressed on behalf of his government; that Chile had given numerous proofs of the sincerity of her aspirations, by embodying in her international agreements the principle of arbitration as a means of solving difficulties with friendly nations; that, respecting the independence and integrity of other states, she also did not harbor designs of territorial expansions, except such as resulted from the fulfilment of treaties at present in existence or which might hereafter be concluded; that his government would persist in this policy; that, happily, the question of the delimitation of frontier between Chile and the Argentine Republic had ceased to be a danger to peace, since both nations were awaiting the arbitral decision of His Britannic Majesty; that, in consequence, believing that he was interpreting the public opinion of Chile, he made these declarations, deeming, in common with the Argentine Minister, that the moment had now come to remove all cause for trouble in the relations between the two countries.

In view of this conformity of sentiments, it was arranged :

1. To conclude a general treaty of arbitration which would guarantee the realization of the aims referred to.

2. To draw up a protocol of the present conference, such document to be considered as forming an integral part of the treaty itself.

In witness whereof, two copies of the present note were signed on the twenty-eighth of May, one thousand nine hundred and two.

[Here follow signatures.]

General arbitration treaty

The Governments of the Argentine Republic and of Chile, animated by a mutual desire of solving, by friendly means, any question which may arise between the two countries, have agreed to conclude a general treaty of arbitration, for which purpose they have constituted as their Ministers Plenipotentiary, namely:

His Excellency the President of the Republic of Chile, Señor Don José Francisco Vergara Donoso, Minister of State in the Department of Foreign Affairs; and

His Excellency the President of the Argentine Republic, Señor Don José Antonio Terry, Envoy Extraordinary and Minister Plenipotentiary of that country:

Who, after having exchanged their full powers, which they found in good and due form, have agreed to the stipulations contained in the following articles:

ARTICLE I

The high contracting parties bind themselves to submit to arbitration all controversies between them, of whatever nature they may be, or from whatever cause they may have arisen, except when they affect the principles of the constitution of either country, and provided that no other settlement is possible by direct negotiations.

ARTICLE II

Questions which have already been the subject of definite settlement between the high contracting parties can not, in virtue of this treaty, be reopened. In such cases arbitration will be limited exclusively to the questions which may arise respecting the validity, the interpretation, and the fulfilment of such agreements.

ARTICLE III

The high contracting parties nominate as arbitrator His Britannic Majesty's Government. If either of the parties should break off

friendly relations with His Britannic Majesty's Government, in that event both parties nominate as arbitrator the Government of the Swiss Confederation.

Within the period of sixty days, dating from the exchange of ratifications, both parties shall, jointly or separately, request His Britannic Majesty's Government, the arbitrator in the first instance, and the Government of the Swiss Confederation, the arbitrator in the second instance, to consent to accept the duty of arbitrators conferred upon them by this treaty.

ARTICLE IV

The points, questions, or difficulties involved shall be determined by the contracting governments, who may define the scope of the arbitrator's powers and any other circumstance relating to the procedure.

ARTICLE V

In default of agreement, either of the parties may invite the intervention of the arbitrator, whose duty it will be to determine the agreement, the time, place, and formalities of the proceedings, as also to settle any difficulties of procedure as to which disputes may arise in the course of the arbitration.

The contracting parties undertake to place all the information in their power at the disposal of the arbitrator.

ARTICLE VI

Each of the parties may appoint one or more delegates to represent it before the arbitrator.

ARTICLE VII

The arbitrator is competent to decide upon the validity and interpretation of the agreement, as also to settle the disputes which may arise between the contracting parties as to whether certain questions have or have not been submitted to jurisdiction by arbitration in the written agreement.

ARTICLE VIII

The arbitrator shall decide in accordance with the principles of international law, unless the agreement calls for the application of special rules or authorizes the arbitrator to decide in the character of a friendly mediator.

ARTICLE IX

The award shall decide definitely each point in dispute, and the reasons for the same shall be stated.

ARTICLE X

The award shall be drawn up in duplicate, and shall be notified to each of the parties by means of its representative.

ARTICLE XI

The award legally pronounced decides, within the limits of its scope, the dispute between the parties.

ARTICLE XII

The arbitrator shall fix in the award the time within which it shall be executed, and be competent to settle any questions which may arise with respect to its execution.

ARTICLE XIII

There is no appeal against the award, and its fulfilment is entrusted to the honor of the nations who have signed this agreement. Nevertheless, recourse to revision shall be allowed before the same arbitrator who pronounced it, provided such action be taken within the time allotted for the execution and in the following cases:

1. If the award has been given on the strength of a document which has been falsified or tampered with; and
2. If the award has been, in whole or in part, the consequence of an error of fact resulting from the arguments or documents of the case.

ARTICLE XIV

Each one of the parties shall defray its own expenses and half of the general expenses of the arbitrator.

ARTICLE XV

The present treaty shall remain in force ten years, dating from the exchange of ratifications; and if it shall not have been denounced six months before the date of its expiry, it shall be considered renewed for another ten years, and so on.

The present treaty shall be ratified and the ratification shall be exchanged in Santiago de Chile within six months of its date.

In witness whereof the plenipotentiaries of the Argentine Republic and of the Republic of Chile have respectively signed and sealed the present treaty in duplicate, in the city of Santiago, on the twenty-eighth day of May, one thousand nine hundred and two.

[Here follow signatures.]

No. 169

BRAZIL—UNITED STATES

*Protocol of an agreement submitting to arbitration a claim of citizens of the latter against the government of the former.—Signed at Rio de Janeiro, September 6, 1902*¹

The Secretary of State of the United States of America and the Envoy Extraordinary and Minister Plenipotentiary of the Republic of the United States of Brazil having agreed to submit to arbitration the claim of George C. Benner and others against the Republic of the United States of Brazil;

The United States of America and the Republic of the United States of Brazil, through their representatives, Charles Page Bryan, Envoy Extraordinary and Minister Plenipotentiary of the United States of America to Brazil, and Doctor Olyntho Maximo de Magalhães, Minister of State for Foreign Relations of the Republic of the United States of Brazil, have agreed upon and signed the following protocol:

Whereas the owners of the vessel, *James A. Simpson*, citizens of the United States of America, have claimed through the Government of the United States of America from the Government of the Republic of the United States of Brazil indemnity on account of the damage inflicted upon the said vessel and her long boat by the firing of the soldiers of the Government of the Republic of the United States of Brazil and for the damage caused by the detention of the said vessel at the port of Rio de Janeiro, Brazil, it is agreed between the two governments:

ARTICLE I

That the question of the liability of the Republic of the United States of Brazil to pay an indemnity in said case, and, if so found by the arbitrator, the further question of the amount of said indemnity to be awarded and the questions of law and fact brought in issue, shall be referred to Mr. A. Grip, Envoy Extraordinary and Minister Plenipotentiary of Sweden and Norway at Washington, who is hereby appointed as arbitrator to hear said causes and to

¹ English and Portuguese: *United States Treaty Series*, No. 413.

The instrument makes no provision for ratifications or the exchange thereof. The claim was referred to an arbiter, but was withdrawn from consideration, November 28, 1902, for want of evidence. Malloy, *Treaties and Conventions of the United States*, vol. 1, p. 154.

determine the question of said liability and the amount of indemnity, if any, found by said arbitrator to be justly due.

ARTICLE II

The Government of the United States of America will lay before the arbitrator the claimant's evidence and all correspondence between the Government of the Republic of the United States of Brazil and the Minister of the United States of America at Petropolis, Brazil, and the dispatches from the said Minister reporting documentary evidence to the Department of State in relation to the said claim.

All questions of procedure shall be left to the determination of the arbitrator.

ARTICLE III

The Government of the Republic of the United States of Brazil agrees to pay, in American gold, any amount which may be awarded by the arbitrator, if he finds that it is liable therefor.

ARTICLE IV

The evidence is to be submitted to the arbitrator on or before the first day of December, 1902, and his decision is to be rendered within three months thereafter.

ARTICLE V

Each government may furnish to the arbitrator an argument or brief not later than the fifteenth day of January, 1903, a copy of which each party shall furnish to the other at the same time as to the arbitrator.

ARTICLE VI

The Government of the Republic of the United States of Brazil shall pay the indemnity awarded by the arbitrator, if any, within twelve months from the date of the award, unless an extension of the time of its payment should be granted by the Government of the United States of America.

ARTICLE VII

All the expenses of said arbitration are to be paid in equal moieties by the said governments.

ARTICLE VIII

Any award given by the arbitrator shall be final and conclusive.

Done in duplicate in English and Portuguese at Rio de Janeiro this sixth day of September one thousand nine hundred and two.
[Here follow signatures.]

No. 170

BOLIVIA—PERU

*Provision for arbitration in a treaty relating to the demarcation of frontiers.—Signed at La Paz, September 23, 1902*¹

ARTICLE VII

If the high contracting parties should be unable to resolve between themselves the cases which may arise of disagreement between the respective commissions, they shall submit the same to arbitration.

No. 171

BOLIVIA—PERU

*Treaty for the arbitration of boundary disputes.—Signed at La Paz, December 30, 1902*²

The President of the Republic of Bolivia and the President of the Republic of Peru, desiring to settle the question of limits which is pending between the two states, have named for this purpose their plenipotentiaries:

His Excellency the President of the Republic of Bolivia, Dr. Eliodoro Villazón, Minister of Foreign Affairs.

And His Excellency the President of the Republic of Peru, Dr. Felipe de Osma, Envoy Extraordinary and Minister Plenipotentiary to the Bolivian Government, who, after having manifested their full powers and found them in good and due form, have celebrated, in conformity with the second clause of the general treaty of arbitration of November 21 of last year, the following:

ARTICLE I

The high contracting parties submit to the judgment and decision of the Government of the Argentine Republic, in the quality of law-

¹ English: *American Journal of International Law*, Supplement, vol. III, p. 383.

Spanish: *Boletín del Ministerio de Relaciones del Peru*, 1905, No. VII, p. 29.

The instrument makes no provision for ratifications or the exchange thereof.

² Spanish: *Boletín del Ministerio de Relaciones del Peru*, 1905, No. VII, p. 31.

Ratifications exchanged at La Paz, March 9, 1904. See de Martens, *Nouveau recueil*, 3d series, vol. III, p. 52.

ful arbitrator, the question of limits pending between the two republics, with the object of obtaining a definitive decision admitting of no appeal, according to which all the territory which in 1810 pertained to the jurisdiction or province of the ancient court of Charcas within the bounds of the Viceroyalty of Buenos Aires by acts of the former sovereign shall belong to the Bolivian Republic; and all the territory which at this same time and by similar acts pertained to the Viceroyalty of Lima shall belong to the Peruvian Republic.

ARTICLE II

Having, by the treaty of September twenty-third of the present year, settled the demarcation and landmarks of the frontier which commences between the Peruvian provinces of Arica and Tacna and the Bolivian province of Carangas and extends west as far as the snows of Palomani, this section is to be excepted from the present treaty.

ARTICLE III

The arbitrator in pronouncing his decision shall conform to the collection of the laws of the Indies, royal writs and orders, the ordinances of the governors, the diplomatic acts relative to the demarcation of frontiers, maps and official descriptions and in general to all the documents which, having an official character, were dictated to give true significance and execution to the said royal orders.

ARTICLE IV

In case the acts or royal orders do not define the dominion of a territory in a clear manner, the arbitrator shall decide the question equitably, approximating, as far as possible, their significance and the spirit which actuated them.

ARTICLE V

The possession of a territory exercised by one of the high contracting parties can not stand in the way of or prevail against royal titles or orders established by the opposite party.

ARTICLE VI

The high contracting parties, immediately after the ratifications of the present treaty are exchanged, shall solicit the Government of the Argentine Republic, simultaneously and by means of their Envoys Extraordinary and Ministers Plenipotentiary, to accept the office of arbitrator, assume the jurisdiction for the cognizance, substantiation

and decision of the controversy and establish the proceedings to be observed.

ARTICLE VII

One year after the communication of his acceptance, the aforesaid diplomatic representatives shall present their allegation, making manifest the rights of their respective states and the documents tending to prove or serving as a foundation for the claims.

ARTICLE VIII

The said diplomatic agents shall represent their governments in the judgment, with all the necessary faculties for receiving and replying to assertions offering proofs, presenting and enlarging allegations, supplying data which might throw light upon the subject under discussion and, in fine, for following the judgment to its end.

ARTICLE IX

When the decision is made, it shall be definitively put into execution by the act of notifying the said Envoys Extraordinary and Ministers Plenipotentiary of the high contracting parties. From that moment it shall have definitively and obligatorily established the just territorial delimitation between the two republics.

ARTICLE X

Cases not specially provided for by this treaty shall be governed by the treaty of November 21, 1901.

ARTICLE XI

The ratifications of this treaty, after it has been duly approved and ratified by the governments and legislatures of both states, shall be exchanged in La Paz or in Lima, without any delay.

In faith whereof the undersigned sign and seal the present treaty, done in duplicate, in the City of La Paz, on the thirtieth day of the month of December of the year one thousand nine hundred and two. [Here follow signatures.]

No. 172

DOMINICAN REPUBLIC—UNITED STATES

*Protocol of an agreement for arbitration of the claims of the San Domingo Improvement Company.—Signed at Santo Domingo, January 31, 1903*¹

Whereas, differences exist between the Dominican Government and the "San Domingo Improvement Company" and its allied companies; and

Whereas, as the result of those differences, the interests of the Improvement Company and its allied companies, viz.: "The San Domingo Finance Company of New York," "The Company of The Central Dominican Railway," both being corporations created under the laws of New Jersey, and the National Bank of San Domingo, a company originally organized under a French charter, the two latter companies being owned and controlled by the San Domingo Finance Company, are seriously affected; and

Whereas, it is agreed, as the basis of the present settlement, that the Improvement Company and its allied companies shall withdraw from the Dominican Republic, and that they shall be duly indemnified by the latter for the relinquishment of their rights, properties and interests.

The United States of America and the Dominican Republic through their respective representatives, W. F. Powell, Chargé d'Affaires, and Juan Fco. Sánchez, Secretary of State for Foreign Relations, have agreed upon the following articles:

ARTICLE I

It being hereby agreed that the Dominican Government shall pay to the Government of the United States the sum of \$4,500,000 (four millions five hundred thousand dollars) in American gold, on terms to be fixed by the arbitrators, said payment to be made and accepted as full indemnity for the relinquishment by the companies above-mentioned of all their rights, properties and interests, and in full settlement of all accounts, claims and differences between the Dominican Government and the said companies; the terms on which the indemnity thus agreed upon shall be paid shall be referred to a board of three arbitrators, one to be named by the President of the United

¹ English and Spanish: *United States Treaty Series*, No. 417.

The instrument makes no provision for ratification or exchange of ratifications.

States, one by the President of the Dominican Republic, and the third by the President of the United States and the President of the Dominican Republic jointly; but if, within sixty days after the signature of the present protocol, the third arbitrator shall not have been so named, he shall then be selected by the Dominican Government from members of the United States Supreme Court or the United States Circuit Court of Appeals, from names presented.

In case of the death, absence or incapacity of any arbitrator, or in the event of his ceasing or omitting to act, the vacancy shall be filled in the same manner as the original appointment, the period of sixty days to be calculated from the date of the happening of the vacancy.

ARTICLE II

The arbitrators shall meet in the city of Washington, within sixty days after the date of the appointment of the third arbitrator.

The vote of the majority shall suffice for the decision of all questions submitted to the tribunal, including the final award.

ARTICLE III

Within six months after the signature of this protocol, each party shall present to the other and to its agent, and also to each of the arbitrators, two printed copies of its case, accompanied with the documents and evidence on which it relies, together with the affidavits of their respective witnesses.

Within a further period of two months, either party may, in like manner, present a counter-case, with additional documents and evidence and affidavits, in reply to the case, documents and evidence of the other party.

If the other party shall, in its case or counter-case, refer to any document in its exclusive possession without annexing a copy, it shall, upon the request of the other party, furnish the latter with a copy; and either party may call upon the other through the arbitrators, to produce the originals or certified copies of any papers adduced as evidence.

ARTICLE IV

Within two months after the expiration of the term allowed for the filing of counter-cases, each government may, by its agent, as well as by additional counsel, argue its cause before the arbitrators, both orally and in writing. Each side shall furnish to the other copies of any written arguments, and each party shall be at liberty

to make a written reply, provided that such reply be submitted within the two months specified.

ARTICLE V

The companies above mentioned shall cede and transfer to the Dominican Government, and the latter shall acquire from the companies, the properties mentioned herein, the times, terms and conditions of the delivery of which shall be fixed by the arbitrators:

1. All the rights and interests which they may possess in the section of the Central Dominican Railway already constructed, as well as all rights and interests which they may have in the extension of the railways from Santiago to Moca, and from Moca to San Francisco de Macoris.

2. All rights and interests which they may have in the National Bank.

3. All bonds of the Republic of which they may be the holders, the amount of which shall not exceed £850,000, nominal (eight hundred and fifty thousands sterling pounds), nominal and shall be no less than £825,000 (eight hundred and twenty-five thousands sterling pounds nominal).

It is understood that all these bonds are of the class bearing four per cent, annual interests excepting as to £24,000 (twenty-four thousands sterling pounds) two and three-quarter per cent bonds, which shall be accepted at the rate of sixteen $2\frac{3}{4}$ per cent bonds for eleven 4 per cent bonds. A list of the bonds shall accompany the case of the United States.

ARTICLE VI

It is agreed, as the basis of the award to be made by the arbitrators, that the sum specified in Article I hereof shall be paid in monthly instalments, the amount and manner of collection of which shall be fixed by the tribunal. The award shall bear interest from the date of its rendition at the

The Dominican Government having, in its recent negotiations with the American Companies, proposed to pay, on account of its indebtedness to them a minimum sum of \$225,000 (two hundred and twenty-five thousands dollars) per annum, which was to be increased on a sliding scale, it is agreed that the Dominican Government shall, pending the present arbitration, and beginning with the 1st of January 1903, pay to the Government of the United States for the use

of the American Companies, the sum of \$225,000 (two hundred and twenty-five thousands dollars) per annum, in equal monthly instalments, the aggregate amount so paid, at the date of the award, to be taken into account by the arbitrators.

ARTICLE VII

The award of the tribunal shall be rendered within a year from the date of the signature of the present protocol. It shall be in writing, and shall be final and conclusive.

ARTICLE VIII

Reasonable compensation to the arbitrators for their services and all expenses incident to the arbitration, including the cost of such clerical aid as may be necessary, shall be paid by the governments in equal moieties.

Done in quadruplicate, in English and Spanish, at San Domingo City, this thirty-first day of January 1903.

[Here follow signatures.]

Agreement for the naming of arbitrators

It is hereby agreed, on the part of the Dominican Government, through Juan Francisco Sánchez, Secretary of State for Foreign Relations, and the Chargé d'Affaires of the United States of North America, in the person of W. F. Powell, each acting for his respective government, that neither of the signatory parties to this protocol for international arbitration, to which have been referred certain disagreements existing between the Dominican Government on the one side, and the Santo Domingo Improvement Company on the other, shall name its arbitrator as stated in said protocol until after a period of ninety (90) days from the date of signing the same, in order to allow the Dominican Government to come to an agreement with the Santo Domingo Improvement Company, and the date referred to in the appointment of the third arbitrator shall undergo the same postponement as that mentioned above.

To the above we agree, and with good faith to carry the same into effect have hereunto affixed our names and attached thereto the seals of our respective offices.

Done this thirty-first day of January, 1903.

[Here follow signatures.]

No. 173

UNITED STATES—VENEZUELA

*Protocol of an agreement to arbitrate all unsettled claims.—Signed at Washington, February 17, 1903*¹

The United States of America and the Republic of Venezuela, through their representatives, John Hay, Secretary of State of the United States of America, and Herbert W. Bowen, the Plenipotentiary of the Republic of Venezuela, have agreed upon and signed the following protocol.

ARTICLE I

All claims owned by citizens of the United States of America against the Republic of Venezuela which have not been settled by diplomatic agreement or by arbitration between the two governments, and which shall have been presented to the commission hereinafter named by the Department of State of the United States or its legation at Carácas, shall be examined and decided by a mixed commission, which shall sit at Carácas, and which shall consist of two members, one of whom is to be appointed by the President of the United States and the other by the President of Venezuela.

It is agreed that an umpire may be named by the Queen of the Netherlands. If either of said commissioners or the umpire should fail or cease to act, his successors shall be appointed forthwith in the same manner as his predecessor. Said commissioners and umpire are to be appointed before the first day of May, 1903.

The commissioners and the umpire shall meet in the city of Carácas on the first day of June, 1903. The umpire shall preside over their deliberations, and shall be competent to decide any question on which the commissioners disagree. Before assuming the functions of their office the commissioners and the umpire shall take solemn oath carefully to examine and impartially decide, according to justice and the provisions of this convention, all claims submitted to them, and such oaths shall be entered on the record of their proceedings. The commissioners, or in case of their disagreement, the umpire, shall decide all claims upon a basis of absolute equity, without regard to objections of a technical nature, or of the provisions of local legislation.

¹ English: *United States Treaty Series*, No. 420.

Spanish: *Tratados de Venezuela* (1910), p. 298.

The instrument makes no provision for ratifications or exchange thereof.

The decisions of the commission, and in the event of their disagreement, those of the umpire, shall be final and conclusive. They shall be in writing. All awards shall be made payable in United States gold, or its equivalent in silver.

ARTICLE II

The commissioners, or umpire, as the case may be, shall investigate and decide said claims upon such evidence or information only as shall be furnished by or on behalf of the respective governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the respective governments in support of or in answer to any claim, and to hear oral or written arguments made by the agent of each government on every claim. In case of their failure to agree in opinion upon any individual claim, the umpire shall decide.

Every claim shall be formally presented to the commissioners within thirty days from the day of their first meeting, unless the commissioners or the umpire in any case extend the period for presenting the claim not exceeding three months longer. The commissioners shall be bound to examine and decide upon every claim within six months from the day of its first formal presentation, and in case of their disagreement, the umpire shall examine and decide within a corresponding period from the date of such disagreement.

ARTICLE III

The commissioners and the umpire shall keep an accurate record of their proceedings. For that purpose, each commissioner shall appoint a secretary versed in the language of both countries, to assist them in the transaction of the business of the commission. Except as herein stipulated, all questions of procedure shall be left to the determination of the commission, or in case of their disagreement, to the umpire.

ARTICLE IV

Reasonable compensation to the commissioners and to the umpire for their services and expenses, and the other expenses of said arbitration, are to be paid in equal moieties by the contracting parties.

ARTICLE V

In order to pay the total amount of the claims to be adjudicated as aforesaid, and other claims of citizens or subjects of other nations,

the Government of Venezuela shall set apart for this purpose, and alienate to no other purpose, beginning with the month of March, 1903, thirty per cent in monthly payments of the customs revenues of La Guaira and Puerto Cabello, and the payments thus set aside shall be divided and distributed in conformity with the decision of the Hague tribunal.

In case of the failure to carry out the above agreement, Belgian officials shall be placed in charge of the customs of the two ports, and shall administer them until the liabilities of the Venezuelan Government in respect to the above claims shall have been discharged. The reference of the question above stated to the Hague tribunal will be the subject of a separate protocol.

ARTICLE VI

All existing and unsatisfied awards in favor of citizens of the United States shall be promptly paid, according to the terms of the respective awards.

[Here follow signatures.]

No. 174

MEXICO—VENEZUELA

*Protocol of an agreement to submit to arbitration all pending claims of citizens of the former against the government of the latter.—Signed at Washington, February 26, 1903*¹

The United States of Mexico and the Republic of Venezuela, through their representatives, Manuel de Azpíroz, Ambassador of the United States of Mexico, and Herbert W. Bowen, the Plenipotentiary of the Republic of Venezuela, have agreed upon and signed the following protocol:

ARTICLE I

All claims owned by citizens of the United States of Mexico, against the Republic of Venezuela which have not been settled by diplomatic agreement or by arbitration between the two governments, and which shall have been presented to the commission hereinafter named by the Department of State and Foreign Relations of Mexico, or in its name by its agency at Carácas, shall be examined and decided by a mixed commission, which shall sit at Carácas, and

¹ English: Descamp et Renault, *Recueil des traités du XX^e siècle*, 1903, p. 558.

Spanish: *Tratados de Venezuela*, (1910), p. 300.

The instrument makes no provision for ratifications or exchange thereof.

which shall consist of two members, one of whom is to be appointed by the President of the United States of Mexico and the other by the President of Venezuela.

It is agreed that an umpire may be named by His Majesty the King of Spain. If either of said commissioners, or the umpire, should fail or ceases to act, his successor shall be appointed forthwith in the same manner as his predecessor. Said commissioners and umpire are to be appointed before May 1, 1903.

The commissioners and the umpire shall meet in the City of Carácas on the first day of June, 1903. The umpire shall preside over their deliberations, and shall be competent to decide any question on which the commissioners disagree. Before assuming the functions of their office, the commissioners and the umpire shall take solemn oath carefully to examine and impartially decide, according to justice and the provisions of this convention, all claims submitted to them, and such oaths shall be entered on the record of their proceedings. The commissioners, or in case of their disagreement, the umpire, shall decide all claims upon a basis of absolute equity, without regard to objections of a technical nature, or of the provisions of local legislation.

The decisions of the commission, and in the event of their disagreement, those of the umpire, shall be final and conclusive. They shall be made in writing. All awards shall be payable in United States gold, or its equivalent in silver.

ARTICLE II

The commissioners, or umpire, as the case may be, shall investigate and decide said claims upon such evidence or information only as shall be furnished by or on behalf of the respective governments. They shall be bound to receive and consider all written documents or statements which may be presented to them by or on behalf of the respective governments in support of or in answer to any claim, and to hear oral or written arguments made by the agent of each government on every claim. In case of their failure to agree in opinion upon any individual claim, the umpire shall decide.

Every claim shall be formally presented to the commissioners within thirty days from the day of their first meeting, unless the commissioners or the umpire in any case extend the period for presenting the claim not exceeding three months longer. The commissioners shall be bound to examine and decide upon every claim within six months

from the day of its formal presentation, and in case of their disagreement, the umpire shall examine and decide within a corresponding period from the date of such disagreement.

ARTICLE III

The commissioners and the umpire shall keep an accurate record of their proceedings. For that purpose, each commissioner shall appoint a secretary to assist him in the transaction of the business of the commission. Except as herein stipulated, all questions of procedure shall be left to the determination of the commission, or, in case of their disagreement, to the umpire.

ARTICLE IV

Reasonable compensation to the commissioners and to the umpire for their services and expenses, and the other expenses of said arbitration, are to be paid in equal moieties by the contracting parties.

ARTICLE V

In order to pay the total amount of the claims to be adjudicated as aforesaid, and the other claims of citizens or subjects of other nations, the Government of Venezuela shall set apart for this purpose, and alienate to no other purpose, beginning with the month of March, 1903, thirty per cent in monthly payments of the customs revenues of La Guaira and Puerto Cabello, and the payments thus set aside shall be divided and distributed in conformity with the decision of the Hague tribunal.

In case of the failure to carry out the above agreement, Belgian officials shall be placed in charge of the customs of the two ports, and shall administer them until the liabilities of the Venezuelan Government in respect of the above claims shall have been discharged. The reference of the question above stated to the Hague tribunal will be the subject of a separate protocol.

ARTICLE VI

It is understood that if before the first of June, 1903, the claims of Mexico, above mentioned, are settled by an agreement between the claimants and the Government of Venezuela, or decided in favor of said claimants by the High Court of Venezuela, said claims shall not be submitted to the arbitration agreed upon in the preceding articles.

In any case the sum determined by settlement, judgment or by

award shall be paid in accordance with the stipulations of Article V of this protocol.

Done at Washington, D. C., today, February 26, 1903.
[Here follow signatures.]

No. 175

GUATEMALA—HONDURAS—NICARAGUA—SALVADOR

*Convention providing for arbitration and friendly mediation.—Signed at San Salvador, November 2, 1903*¹

The Governments of the Republics of Guatemala, Honduras, and Nicaragua, invited by His Excellency the President of Salvador to hold an international conference with the object of assuring peace and harmony among the Central American republics, have commenced their deliberations through their representatives, and have agreed to the following stipulations:

ARTICLE I

The Governments of Guatemala, Honduras, Nicaragua, and Salvador take upon themselves the obligation to maintain peace among the republics here represented. Consequently, as an inviolable principle of conduct, they establish the principle of nonintervention by any one of them in the domestic affairs of the other sister republics.

ARTICLE II

The cultivation of good relations being one of the most efficacious means of maintaining peace, the four governments obligate themselves reciprocally to accredit consuls-general with the character of *chargés d'affaires*, with their residences in the capitals of each of the republics.

ARTICLE III

To adjust the disputes that may arise among the nations signing, the principle of obligatory arbitration, already recognized, is hereby confirmed.

¹ English: *United States Foreign Relations*, 1904, p. 351.

Spanish: *Tratados Vigentes de Honduras*, (1905), p. 167.

Article VII provides that exchange of ratifications should be unnecessary but that the convention should go into force as soon as each of the presidents of the signatory republics should give notice to the rest that it had been ratified. The fact that it is contained in the *Treaties in Force of Honduras in 1905* indicates that all of the ratifications had been effected. Guatemala ratified it April 26, 1904, and Honduras, December 8, 1903.

Strictly speaking the arbitral provisions are confined to the third and fourth articles; but the entire treaty is for the peaceable settlement of disputes.

ARTICLE IV

The questions that arise between any two of the republics signing, that are not bound between themselves by former conventions of arbitration, shall be solved in accordance with the principles and regulations set forth in the Pan-American treaty entered into at Mexico on January 29, 1902.

ARTICLE V

In case of a serious difficulty between two or more of the signatory republics that makes armed strife probable the parties interested oblige themselves to ask for, and the neutrals to interpose, the friendly mediation of the latter for the peaceful adjustment of the pending difficulties.

ARTICLE VI

This treaty being of general interest to Central America, and the sister Republic of Costa Rica not being represented in this conference, it is decided to invite the latter, in order that, if she sees fit to do so, she may accept and sign the stipulations set forth herein.

ARTICLE VII

When the present convention shall have been approved by the president of each republic, it will at once go into effect, without the necessity of previous exchange, it being sufficient for the high contracting parties reciprocally to give notification that it has been approved in the prescribed form.

In witness whereof we sign in quadruplicate, in the city of San Salvador, this second day of November, one thousand nine hundred and three.

[Here follow signatures.]

No. 176

BOLIVIA—BRAZIL

*Provisions for arbitration in the treaty settling the Acre boundary controversy.—Signed at Petropolis, November 17, 1903*¹

ARTICLE II

The transference of territories resulting from the delimitation described in the preceding article includes all the rights inherent in them and the responsibility flowing from the obligation to maintain and respect the legal rights acquired by citizens and foreigners, according to the principles of the civil law.

The claims arising from administrative acts and events that have taken place in the territories exchanged shall be examined and judged by an arbitration tribunal composed of one representative of Brazil, another of Bolivia, and one foreign minister accredited to the Brazilian Government. This third arbiter, president of the court, shall be chosen by the two high contracting parties immediately upon the exchange of ratifications of the present treaty. The court shall perform its functions during one year in Rio de Janeiro, and shall commence its labors within the period of six months, counted from the day of the exchange of ratifications. Its mission shall be: (1) to accept or reject the claims; (2) to fix the amount of the indemnities; (3) to designate which of the two governments is to pay them.

The payments may be made in bonds issued for the purpose, at par, to draw interest at three per cent and sinking fund charges of three per cent.

ARTICLE IV

A mixed commission named by the two governments within the period of one year, counted from the exchange of ratifications, shall proceed to the demarcation of the boundary described in Article I, commencing its labors within the six months following its nomination.

¹ English: *American Journal of International Law*, Supplement, vol. 1, pp. 418, 419.

Portuguese: Brazil, *Diario Oficial*, March 15, 1904, p. 1257.

Spanish: de Martens, *Nouveau recueil*, 3d series, pp. 64, 65.

Ratifications exchanged at Rio de Janeiro, March 10, 1904. See source last cited, p. 62.

The labors of the arbitral tribunal created by virtue of the provision in Article II, which had been suspended since May 20, 1906, were revived by an agreement signed at Rio de Janeiro, February 6, 1907, and were to recommence within one year, the day of resumption to be fixed by an exchange of notes and to be as soon as possible after the Bolivian executive should be empowered to appoint its arbitrator, and to terminate within a year from the date of resumption. The Apostolic Nuncio was to be president of the tribunal. See English source, cited *supra*, p. 421.

Any disagreement between the Brazilian and Bolivian commission which the two governments may not succeed in settling shall be submitted to the arbitral decision of a member of the Royal Geographical Society of London, chosen by the president and members of the council of the same.

If the commissioners appointed by either of the high contracting parties to delineate the boundary fail to present themselves at the place and on the date agreed upon for the commencement of their labors, the commissioners of the others shall proceed of themselves to the marking, and the result of their operations shall be binding on both.

No. 177

PANAMA—UNITED STATES

*Provisions for arbitration in the convention for the construction of the Panama Canal.—Signed at Washington, November 18, 1903*¹

ARTICLE VI

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation and protection of the said canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this

¹ English and Spanish: *United States Statutes at Large*, vol. 33, p. 2234. Ratifications exchanged at Washington, February 26, 1904.

treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

ARTICLE XV

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two governments who shall render the decision. In the event of the death, absence, or incapacity of a commissioner or umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the commission or by the umpire shall be final.

No. 178

ECUADOR—PERU

*Protocol of an agreement to arbitrate a claim of the former against the latter.—Signed at Lima, January 21, 1904*¹

His Excellency Dr. José Pardo, Minister for Foreign Relations of Peru, and Señor Augusto Aguirre Aparicio, Chargé d'Affaires of Ecuador, specially authorized by his government for this purpose, having met in the department for foreign relations, agreed to the following protocol:

The Governments of Peru and Ecuador, animated by a sincere intention to maintain between them the most perfect cordiality and harmony in their relations, as well as to reach the quickest and easiest settlement of the differences arisen in consequence of the lamentable conflict which occurred in Angoteros on the twenty-sixth of June, of last year, agree, through the undersigned, to submit the claim presented by the Government of Ecuador on account of

¹ English: *United States Foreign Relations*, 1904, p. 681.

Spanish: Peru, *Boletín de Relaciones Exteriores*, 1904, vol. I, p. 78.

The instrument makes no provision for ratifications or the exchange thereof.

that occurrence and its consequences to the definite and unappealable decision of the diplomatic agent of a friendly power accredited to the Governments of Peru and of Ecuador, or to any other nation friendly to both of these.

By a special protocol the two parties will agree upon the diplomatic agent who will serve as arbitrator, and within the term of six months from the date at which the aforesaid agent advises them of his acceptance the two governments will present separately to him a documentary statement of the facts submitted to arbitration.

If, for the better knowledge of the facts, the arbitrator should consider it necessary to investigate the same in a special manner at the place in which they occurred, he shall have the power to name a mixed commission, to be composed of a delegate of each one of the two governments, assisted by such a staff of subalterns as he may think proper, it being understood that none of those parties who have in any way taken part in the facts to be investigated can be members of the commission in any form whatever.

The two governments obligate themselves to afford all the requisite facilities for the best discharge of the functions of the commission.

In witness whereof they sign in duplicate the present protocol, in Lima, on the twenty-first day of January, one thousand nine hundred and four.

[Here follow signatures.]

No. 179

BRAZIL—PERU

*Convention for the arbitration of the claims of citizens of each against the government of the other.—Signed at Rio de Janeiro, July 12, 1904*¹

The Government of the Republic of the United States of Brazil and the Government of the Republic of Peru desiring in the interests of the good relations of friendship between the two countries that, owing to facts which took place in the Alto Juruá and in the Alto Purús, the complaints of their citizens be examined and adjusted

¹ English: *United States Foreign Relations*, 1904, p. 111.

Portuguese: *Collecção das Leis da República*, 1905, vol. i, Pt. II, p. 60.

Spanish: *Boletín del Ministerio de Relaciones Exteriores*, 1907, vol. xv, p. 61.

Ratifications exchanged at Rio de Janeiro, January 11, 1905. See *Actos Diplomáticos de Brasil*, vol. II, p. 326.

promptly and equitably, gave for this purpose the necessary instructions to their plenipotentiaries, viz.:

The President of the Republic of the United States of Brazil to Mr. José María da Silva Paranhos do Rio-Branco, Minister of Foreign Affairs; and

The President of the Republic of Peru to Dr. Don Hermán Velarde, Envoy Extraordinary and Minister Plenipotentiary of the same republic in Brazil;

Who, properly authorized, have agreed to the following:

ARTICLE I

The complaints of Brazilian and Peruvian citizens for damages or wrongs which they may have suffered or claim to have suffered in the Alto Juruá and in the Alto Purús since 1902 shall be referred to the judgment of a tribunal of arbitration, which shall sit in the city of Rio de Janeiro and shall begin its functions six months after the exchange of the ratifications of this compact.

ARTICLE II

There will be formed a tribunal of two arbiters, one a Brazilian, the other a Peruvian, nominated by the same respective governments one month after the exchange of the ratifications of this convention, and an umpire, chosen at the same time by the two governments from among the chiefs of the diplomatic corps accredited to Brazil.

ARTICLE III

Within the space of a year, counting from the first meeting, or within six months, if possible, the tribunal shall examine and decide upon all claims, with the power to judge them according to law or "*ex aequo et bono*."

Only those claims shall be examined and judged which are received by the tribunal within six months, counting from the beginning of their work.

ARTICLE IV

The awards of the tribunal shall be considered by the high contracting parties as decisive and satisfactory, perfect and irrevocable, the claimants obligating themselves beforehand to accept them as final.

ARTICLE V

The payment of indemnities decided upon will be made by one government to the other within the term of a year, counting from the

date of the closing of the session of the tribunal, without either interest or any deduction.

ARTICLE VI

Each of the two governments shall pay the salary of its arbiter and his assistants, as well as half of the salary of the umpire, which will be fixed at their convenience.

ARTICLE VII

The ratifications of this compact shall be exchanged in Rio de Janeiro within the space of four months, or sooner if possible.

In faith of which, we, the plenipotentiaries above mentioned, sign the same in two copies, each one in the Portuguese and Spanish language, affixing our respective seals.

Done in Rio de Janeiro the twelfth day of July, one thousand nine hundred and four.

[Here follow signatures.]

No. 180

BRAZIL—PERU

*Provision for arbitration in a protocol of an agreement for settling a boundary dispute.—Signed at Rio de Janeiro, July 12, 1904*¹

ARTICLE II

The two governments, desirous of maintaining and tightening more and more their friendly relations as neighbors, declare now their sincere purpose to resort to some other means of solving in a friendly way international litigations, that is to say, to the good offices or to the mediation of some friendly government or the decision of an arbiter, if within the indicated period of time or within future extensions of time agreed upon they do not reach a direct satisfactory agreement.

¹ English: *United States Foreign Relations*, 1904, p. 110.

Portuguese: Brazil, *Diário Oficial*, July 17, 1904.

Spanish: Peru, *Boletín del Ministerio de Relaciones Exteriores*, 1906, vol. XII, p. 152.

The instrument makes no provision for ratifications or the exchange thereof.

No. 181

BOLIVIA—CHILE

*Provision for the arbitration of disputes arising out of the interpretation or execution of a treaty of peace, friendship, and commerce.—Signed at Santiago, October 20, 1904*¹

ARTICLE II

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Within six months from the ratification of this treaty the high contracting parties shall appoint a commission of engineers to mark out on the spot the boundary line, the points of which are enumerated in this article and indicated in the annexed plan, which shall form an integral part of the present treaty, and in accordance with the mode of proceeding and at the time which may be agreed upon by special understanding between the two governments.

Should any dispute arise between the engineers entrusted with the demarcation, which can not be settled by the direct action of the two governments, the question shall be submitted to the decision of His Majesty the German Emperor according to Article XII of this treaty. . . .

ARTICLE XII

Any difficulties that may arise with regard to the interpretation or execution of the present treaty shall be submitted to the arbitration of His Majesty the German Emperor.

No. 182

ECUADOR—PERU

*Informal agreement to arbitrate certain claims of each against the other.—Signed at Quito, October 22, 1904*²

On the twenty-second day of the month of October, 1904, His Excellency, Dr. Mariano H. Cornejo, Envoy Extraordinary and

¹ English: *British and Foreign State Papers*, vol. xcvi, pp. 766, 768.

Spanish: de Martens, *Nouveau recueil*, 3d series, vol. ii, pp. 176, 179.

Ratifications were exchanged at La Paz, March 10, 1905.

The German Emperor declined to act as arbitrator in the case; and a special agreement signed at Santiago, April 16, 1907, referred it to the Permanent Court of Arbitration at The Hague. See No. 190, *post*, p. 365.

² Spanish: Peru, *Boletín del Ministerio de Relaciones Exteriores*, 1905, vol. iv, p. 59.

The instrument makes no provision for ratifications or the exchange thereof.

Minister Plenipotentiary of Peru and His Excellency Miguel Valverde, Minister of Foreign Relations, having met in the Ministry of Foreign Relations, after a careful discussion of the mutual claims of Peru and Ecuador growing out of the regrettable incident of Torres-Causana, and in view of the fact that it has been impossible to arrive at any direct agreement on account of the different view which the governments of the two countries take of the matter, have agreed to submit it to the royal commissary which the Spanish monarch should send in accordance with the protocol of February nineteen of the present year.

By virtue thereof both diplomatic agents have stated on behalf of Peru and Ecuador that when the Spanish commissary shall have arrived at Quito, the respective governments are authorized to request him, either directly or through their agents, to decide those claims which by reason of the incident of Torres-Causana the Chancelleries of the two countries may have seen fit to formulate; stating furthermore that the decision regarding these claims shall have no effect whatever on the rights of property or possession.

The two diplomatic agents have declared also that they bound themselves on behalf of their respective Chancelleries never to make use of this agreement as an argument in any debate over the rights of property or possession; signing it in duplicate.

[Here follow signatures.]

No. 183

COSTA RICA—PANAMA

*Agreement to recognize as binding the arbitral award of September 11, 1900, settling the boundary dispute between the former and Colombia.—Signed at Panama, March 6, 1905*¹

The Governments of the Republics of Panama and Costa Rica, having in view the friendly and definitive settlement of any questions which may arise in the future regarding their respective territorial rights, and animated with the desire to abolish forever the differences which for many years have been a source of disturbance between the two nations here represented, and which to-day ought to be dispelled forever, inasmuch as the fraternal and reciprocal interests of both countries desire it; to such end His Excellency the President of

¹ Spanish: Panama, *Leyes 1906-1907*, p. 79.

The instrument makes no provision for ratifications or exchange thereof.

the Republic of Panama has conferred full powers upon the Most Excellent General Don Santiago de la Guardia, Secretary of State in the Ministry of Government and Foreign Affairs, and His Excellency the President of the Republic of Costa Rica, upon the Most Excellent Licenciado Don Leonidas Pacheco, Envoy Extraordinary and Minister Plenipotentiary to the Government of the Republic of Panama, which Plenipotentiaries before completing the formalities of procedure, make the following declaration in the name of their respective governments:

The signatory republics solemnly declare that in compliance with the resolutions and decrees of the laws and respective treaties and official declarations made by the parties, the dispute concerning territorial boundaries, kept up for many years by the Republic of Colombia (formerly owner of the territory in dispute, now belonging to Panama), and the Republic of Costa Rica, shall be understood to have been settled by the award which His Excellency the President of the French Republic was pleased to pronounce in the arbitration of the case, at Rambouillet, September 11, 1900, and in virtue of which, the frontier having been fixed by the high judge by means of general indications, the exact [(?) *material*, in Spanish] determination of the same was left to mutual agreement which should be dictated by the spirit of conciliation and good understanding with which the two interested nations have hitherto been inspired.

In faith of which we sign and seal it in duplicate, in the city of Panama, March six, one thousand nine hundred and five.

[Here follow signatures.]

No. 184

COLOMBIA—ECUADOR

*Provision for general arbitration in a treaty of friendship, commerce, and navigation.—Signed at Quito, August 10, 1905*¹

ARTICLE III

If unfortunately the relations of friendship and good intercourse which now happily exist between the two republics, and which it is the object of the present treaty to render permanent, shall be interrupted at any time, the contracting parties solemnly promise never to appeal

¹ English: *British and Foreign State Papers*, vol. xcix, p. 1013.

Spanish: Colombia, *Tratados Públicos*, (1913), p. 30.

Ratifications exchanged at Quito, October 24, 1907.

to recourse to arms before they have essayed that of negotiation, demanding and giving explanations as to the injuries which the one considers itself to have suffered from the other, or as to the differences which have arisen between them; and until due satisfaction has been expressly refused, after a friendly and neutral power, chosen as arbitrator, shall have given its decision on the justice of the demand in view of the arguments and proofs adduced in support thereof by one side and of the replies of the other side.

No. 185

ARGENTINA—BRAZIL

General arbitration treaty.—Signed at Rio de Janeiro, September 7, 1905¹

The Government of the Republic of the United States of Brazil and the Government of the Argentine Republic, desiring to establish upon firm, permanent bases the relations of ancient friendship and good neighborliness that happily exist between the two countries, have determined to celebrate a general treaty of arbitration, and, to this end, have nominated plenipotentiaries, to wit:

His Excellency Mr. Francisco de Paula Rodriguez Alves, President of the Republic of the United States of Brazil, Mr. José Maria de Silva Paranhos do Rio Branco, Minister of State for Foreign Relations of the same republic; and

His Excellency Mr. Manuel Quintana, President of the Argentine Republic, Mr. Manuel Gorostiaga, Envoy Extraordinary and Minister Plenipotentiary in Brazil;

Who, duly authorized, have agreed upon the following articles:

ARTICLE I

The high contracting parties bind themselves to submit to arbitration the controversies that may arise between them and that they are unable to settle by direct negotiations or by any other means for amicably deciding international disputes, provided such controversies do not turn upon questions involving constitutional rules of the one or the other of the two countries.

¹ English: *American Journal of International Law*, Supplement, vol. III, p. 1.

Portuguese and Spanish: Argentina, *Boletín Oficial*, December 24, 1908, p. 840.

Ratifications exchanged at Buenos Aires, December 5, 1908. See Cardoso de Oliveira, *Actos Diplomáticos do Brasil*, vol. II, p. 333.

ARTICLE II

Adjusted disputes, which have been the object of definite agreements between the two parties, shall not by virtue of this treaty, be reopened, it being possible to submit to arbitration only the questions regarding the interpretation and execution of the same.

ARTICLE III

The high contracting parties shall sign a special agreement for each case that occurs.

ARTICLE IV

The points agreed upon shall be fixed with due clearness by the high contracting parties, who should also determine the scope of the powers of the arbitrator or arbitrators and the procedure governing them.

ARTICLE V

In the absence of special stipulations between the parties, it shall be the duty of the arbitrator or arbitrators to designate the time of the sessions and the place, which shall be outside of the territories of the contracting states, to select the language that shall be used, to determine the manner of presentation of the case, the formalities and periods of time to which the parties should adhere, the procedure to follow, and, in general, to take all the necessary steps to exercise their functions and solve all the difficulties that may arise in the course of the discussion.

The two governments bind themselves to place at the disposition of the arbitrator or arbitrators all the sources of information at their disposal.

ARTICLE VI

The designation of the arbitrator or arbitrators shall be made in the special agreement or in a separate instrument, after the nominee or nominees declare that they accept the mission.

ARTICLE VII

If it is agreed that the question shall be submitted to an arbitral tribunal, each of the high contracting parties will nominate an arbitrator and they will try to agree upon a third, who will be, by right, president of the tribunal. In the case of disagreement over the election of a third, the two governments shall request the President of the Swiss Confederation to nominate the president of the tribunal.

ARTICLE VIII

Each one of the parties may appoint one or more representatives to defend their cause before the arbitrator or arbitrators.

ARTICLE IX

The arbitrator, or the arbitral tribunal, is competent to decide as to the validity of the agreement and the interpretation of the same. Consequently, it is also competent to decide the controversies between the parties as to whether certain questions that arise are or are not proper material to be submitted to the arbitral jurisdiction according to the terms of the agreement.

The arbitral tribunal is competent to decide as to the regularity of its own formation.

ARTICLE X

The arbitrator or the arbitral tribunal shall be obliged to decide according to the principles of International Law, following the special rules which the two parties may have established, or *ex aequo et bono*, in accordance with the powers that may have been conferred upon them by the agreement.

ARTICLE XI

The decisions of the tribunal will be taken in the presence of the three arbitrators and by unanimity or majority of votes.

The concordant votes of the two arbitrators first chosen will decide the question or questions submitted to the tribunal. If there is difference between the two, the president, or third arbitrator, will adopt one of the votes or will give his own, which shall be decisive.

In the absence of one of the arbitrators, the session will be postponed until he is able to appear, in case he is absent for sufficient reason. If, however, after having been duly summoned, the absentee without just reason should not see fit to take part in the decisions or in other acts of the procedure, the tribunal may function with the two present, the voluntary and unjustifiable absence of the other being entered on the record.

ARTICLE XII

The award must decide finally all the points in litigation, and shall be prepared in duplicate, signed by the single arbitrator or by the three members of the arbitral tribunal. If any one of these refuses to sign, the other two shall make mention of this in a special statement signed by them.

The award shall or shall not give the reasons therefor according to the provisions of each special agreement.

ARTICLE XIII

The arbitrator or the arbitral tribunal must notify the representative of each of the two parties of the award.

ARTICLE XIV

The award legally pronounced decides, within the limits of its application, the litigation between the parties. It shall indicate the time within which it must be executed.

ARTICLE XV

Each one of the contracting states binds itself faithfully to observe and carry out the arbitral award.

ARTICLE XVI

The disputes that arise regarding the execution of the award will be decided by arbitration and, whenever it may be possible, by the same arbitrator who pronounced it.

ARTICLE XVII

If, before the termination of the execution of the award either of the two parties interested should have knowledge of the falsity or alteration of any document upon which the award was based, or can prove that the award was, in whole or in part, based upon an error as to fact, that party may appeal for a rehearing before the same arbitrator or tribunal.

ARTICLE XVIII

Each one of the parties will pay the expenses of its representation and half of the general expenses of the arbitration.

ARTICLE XIX

After the approval by the legislative power of each of the two Republics, this treaty will be ratified by the respective governments and the ratifications will be exchanged in the city of Rio de Janeiro or in Buenos Aires in the shortest possible time.

ARTICLE XX

The present treaty shall remain in force for ten years, counting from the day upon which the ratifications are exchanged. If it should not

be denounced six months before the end of this time, it will be continued for another period of ten years, and so on.

In faith whereof, we, the plenipotentiaries above named, sign the present instrument in duplicate, one in the Portuguese and the other in the Castillian language, and affix thereto our seals.

Done in the city of Rio de Janeiro, on the seventh day of the month of September, in the year nineteen hundred and five.

[Here follow signatures.]

No. 186

BOLIVIA—PERU

*Provision for the arbitration of disputes which might arise in the interpretation or execution of a treaty of commerce.—Signed at Lima, November 27, 1905*¹

ARTICLE XI

All the questions which may arise respecting the meaning and execution of the present treaty, and which can not be settled directly between the two parties, shall be submitted to arbitration, in accordance with the general treaty of arbitration between the two countries dated November 21, 1901.

No. 187

GUATEMALA—HONDURAS—SALVADOR

*Provision for general arbitration in a convention of peace resulting from the joint mediation of the United States and Mexico.—Signed on board the cruiser "Marblehead" of the United States Navy, July 20, 1906*²

ARTICLE V

If, contrary to expectations, any one of the high contracting parties shall fail in the future in any of the points agreed upon in this treaty,

¹ English: *United States Foreign Relations*, 1905, p. 739.

Spanish: Peru, *Boletín del Ministerio de Relaciones Exteriores*, 1905, vol. ix, p. 6.

Ratifications exchanged at Lima, January 30, 1906. See *British and Foreign State Papers*, vol. c, p. 806.

² English: *United States Foreign Relations*, 1906, vol. i, p. 851.

Spanish: *Minutes, Documents, Treaties, etc.*, Central American Peace Conference, Washington, 1907, Appendix I, p. 15.

The agreement provided that it should be executed immediately after signing and it was, though provision was also made for an exchange of ratifications by the exchange of notes within ten days after the signing. The Salvadorian executive's ratification of July 22, and notice thereof to Guatemala and Honduras dated July 25 are announced on p. 853 of the English source cited. The definitive treaty of peace, friendship, commerce, etc., which according to the fourth article of this preliminary convention was to be concluded within two months from the signing of the latter was negotiated and signed as provided. See English source, given *supra*, pp. 853–863.

or should give cause for new differences, these shall be submitted to arbitration, their Excellencies the Presidents of the United States of America and of the United States of Mexico being hereby designated as arbitrators, to which arbitration shall also be submitted the existing difficulties between Guatemala, Salvador and Honduras.

No. 188

ARGENTINA—BOLIVIA—BRAZIL—CHILE—COLOMBIA—
COSTA RICA—CUBA—DOMINICAN REPUBLIC—
ECUADOR—GUATEMALA—HONDURAS—MEXICO—
NICARAGUA—PANAMA—PERU—SALVADOR—UNITED
STATES—URUGUAY

*Convention for the arbitration of pecuniary claims.—Signed at the Third
Pan-American Conference at Rio de Janeiro, August 13, 1906*¹

Their Excellencies, the Presidents of Ecuador, Paraguay, Bolivia, Colombia, Honduras, Panama, Cuba, the Dominican Republic, Peru, El Salvador, Costa Rica, the United States of Mexico, Guatemala, Uruguay, the Argentine Republic, Nicaragua, the United States of Brazil, the United States of America, and Chile;

Desiring that their respective countries should be represented at the Third International American Conference, sent thereto, duly authorized to approve the recommendations, resolutions, conventions and treaties that they might deem convenient for the interests of America, the following delegates:

Ecuador—Dr. Emilio Arévalo; Olmedo Alfaro.

Paraguay—Manuel Gondra; Arsenio López Decoud; Gualberto Cardús y Huerta;

Bolivia—Dr. Alberto Gutiérrez; Dr. Carlos V. Romero;

Colombia—Rafael Uribe Uribe; Dr. Guillermo Valencia;

Honduras—Fausto Dávila;

Panama—Dr. José Domingo de Obaldía;

¹ English, Portuguese and Spanish: *United States Statutes at Large*, vol. 37, p. 1648.

Renewing the convention of January 30, 1902, No. 164, *ante*, p. 313 and replaced by that of August 11, 1910, No. 227, *post*, p. 469. The renewal convention makes no provision for ratifications or exchange thereof. Probably the renewal went through the formalities provided in the original. It was ratified by the United States on March 13, 1907 and the ratification of the United States was deposited with the Government of Brazil on April 23, 1907, but it was not proclaimed until January 28, 1913, by which time it had also been ratified by the following: Colombia, Cuba, Guatemala, Mexico, Chile, Costa Rica, Nicaragua, Ecuador, Honduras, Panama, and Salvador.

Cuba—Dr. Gonzalo de Quesada; Rafael Montoro; Dr. Antonio González Lanuza;

Dominican Republic—E. C. Joubert;

Peru—Dr. Eugenio Larrabure y Unánue; Dr. Antonio Miró Quesada; Dr. Mariano Cornejo;

El Salvador—Dr. Francisco A. Reyes;

Costa Rica—Dr. Ascensión Esquivel;

United States of Mexico—Dr. Francisco León de La Barra; Ricardo Molina-Hübbe; Ricardo García Granados;

Guatemala—Dr. Antonio Batres Jáuregui;

Uruguay—Luis Melian Lafinur; Dr. Antonio María Rodríguez; Dr. Gonzalo Ramírez;

Argentine Republic—Dr. J. V. González; Dr. José A. Terry; Dr. Eduardo L. Bidau;

Nicaragua—Luis F. Corea;

United States of Brazil—Dr. Joaquim Aurelio Nabuco de Araujo; Dr. Joaquim Francisco de Assis Brasil; Dr. Gastão da Cunha; Dr. Alfredo de Moraes Gomes Ferreira; Dr. João Pandiá Calogeras; Dr. Amaro Cavalcanti; Dr. Joaquim Xavier da Silveira; Dr. José P. da Graça Aranha; Antonio da Foutoura Xavier;

United States of America—William I. Buchanan; Dr. L. S. Rowe; A. J. Montague; Tulio Larrinaga; Dr. Paul S. Reinsch; Van Leer Polk.

Chile—Dr. Anselmo Hevia Riquelme; Joaquín Walker Martínez; Dr. Luis Antonio Vergara; Dr. Adolfo Guerrero;

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, have agreed, to celebrate a convention extending the treaty on pecuniary claims celebrated in Mexico on the thirtieth of January nineteen hundred and two, in the following terms:

The high contracting parties, animated by the desire to extend the term of duration of the Treaty on pecuniary claims, signed at Mexico, January thirtieth, nineteen hundred and two, and believing that, under present conditions, the reasons underlying the third article of said Treaty have disappeared, have agreed upon the following:

SOLE ARTICLE

The treaty on pecuniary claims, signed at Mexico, January thirtieth, nineteen hundred and two, shall continue in force, with the exception of the third article, which is hereby abolished, until the

thirty-first day of December, nineteen hundred and twelve, both for the nations which have already ratified it, and for those which may hereafter ratify it.

In testimony whereof the plenipotentiaries and delegates have signed the present convention, and affixed the Seal of the Third International American Conference.

Made in the city of Rio de Janeiro the thirteenth of August nineteen hundred and six, in English, Portuguese, and Spanish, and deposited with the Secretary of Foreign Affairs of the United States of Brazil, in order that certified copies thereof be made, and sent through diplomatic channels to the signatory states.

[Here follow signatures.]

No. 189

COSTA RICA—GUATEMALA—HONDURAS—SALVADOR

*Provision for general arbitration in a treaty of peace, friendship, commerce, etc.—Signed at San José, September 25, 1906*¹

ARTICLE II

In the event, which is not to be expected, that any of the high contracting parties should fail to comply with or cause any deviation from any of the subjects agreed to in the present treaty, such event, as well as any particular difficulty which may arise between them, shall necessarily be settled by the civilized means of arbitration.

ARTICLE III

The Governments of Salvador, Guatemala, and Honduras, in conformity with the stipulations of the treaty executed on board the *Marblehead*, hereby appoint as umpires, their Excellencies the Presidents of the United States of America and of the United Mexican States, to whom all particular difficulties arising among said governments shall be submitted for arbitration.

For the purpose of agreeing on the manner to effect such arbitration, the above-mentioned republics shall accredit, at the latest within

¹ English: *United States Foreign Relations*, 1906, pt. I, p. 857.

Spanish: Guatemala. *Memoria de Relaciones Exteriores*, 1907, p. 160.

Ratified by Guatemala, April 24, 1907. *Bulletin of the Pan American Union*, vol. xxiv, p. 1380. The facts are not at hand concerning the ratifications by other contracting powers or their exchange: but diplomatic relations were restored as a result of this treaty. See Spanish source given *supra*, p. 11.

three months from this date, their respective legations near the Governments of the United States of America and Mexico, and in the meanwhile arbitration shall be ruled according to the stipulations of the treaty of compulsory arbitration concluded in Mexico on the twenty-ninth of January, one thousand nine hundred and two.

No. 190

BOLIVIA—CHILE

*Protocol submitting to the Court of Arbitration at The Hague any disputes that might arise in the execution of the boundary treaty of October 24, 1904.—Signed at Santiago, April 16, 1907*¹

In Santiago, Chile, April 16, 1907, having met in the office of the Ministry of Foreign Affairs, the Minister of that department, Don Ricardo Salas Edwards, and the Envoy Extraordinary and Minister Plenipotentiary of Bolivia, Don Sabino Pinilla, duly authorized for the purpose by their respective governments, and bearing in mind that His Majesty the Emperor of Germany has refused the appointment made in Article XII of the Treaty of Peace and Friendship concluded and signed between Chile and Bolivia, October 20, 1904, to act as arbitrator in all the questions arising with regard to the interpretation or execution of the said agreement, have decided to refer the said questions, in case occasion should arise, to the judgment of the Permanent Court of Arbitration at The Hague, in accordance with the provisions contained in Article 26, Chapter II, Part IV of the Convention for the pacific settlement of international disputes, signed July 29, 1899 by the powers concurrent to the First Peace Conference celebrated at The Hague.

In faith whereof, the Minister of Foreign Affairs and the Envoy Extraordinary of Bolivia sign the present Protocol in duplicate, and seal it with their respective seals.

[Here follow signatures.]

¹ Spanish: de Martens, *Nouveau recueil*, 3d series, vol. II, p. 184.

No provision is made in the instrument for ratifications or the exchange thereof. For the treaty of October 20, 1904, to which this was supplementary, see No. 181, *ante*, p. 354.

No. 191

BRAZIL—COLOMBIA

*Provision for the arbitration of disputes which might arise respecting the execution of this boundary treaty.—Signed at Bogotá, April 24, 1907*¹

ARTICLE III

All doubts which may arise respecting the demarcation shall be amicably settled by the high contracting parties, to which said doubts shall be submitted by their respective commissioners without prejudice to the continuance of the demarcation.

If the two governments can not come to a direct agreement they declare by these presents their intention of abiding by the decision of an arbiter.

No. 192

COSTA RICA—GUATEMALA—HONDURAS—NICARAGUA—
SALVADOR

*Provision for general arbitration in a protocol arranging for a central American Peace Conference at Washington.—Signed at Washington, September 17, 1907*²

We, the representatives of the five republics of Central America, having met in the city of Washington on the initiative of their Excellencies the Presidents of the United States of America and of the United Mexican States, to settle upon the manner of preserving the good relations between the said republics and of obtaining an enduring peace in those countries; and, with the purpose of fixing upon the basis for bringing to a realization these ends, being duly authorized by our respective governments, have agreed upon the following:

ARTICLE I

Upon the receipt of the formal invitation, which, as is understood, will be issued simultaneously to each one of the five republics of Central America, by their Excellencies the Presidents of the

¹ English: *United States Foreign Relations*, 1907, p. 108.

Spanish and Portuguese: *Tratados Públicos de Colombia*, 1913, p. 11.

Ratifications exchanged at Rio de Janeiro, April 20, 1908. Cardoso de Oliveira, *Actos Diplomáticos do Brasil*, vol. II, p. 350.

² English: *British and Foreign State Papers*, vol. C, p. 834.

Spanish: Mexico, *Boletín Oficial de la Secretaría de Relaciones Exteriores*, October, 1907, p. 343.

The instrument makes no provision for ratifications or the exchange thereof.

See Nos. 193 and 194 following, both of which are related to this.

United States of America and of the United Mexican States, a conference of the plenipotentiary representatives, which the governments of the republics referred to shall appoint for that purpose—that is to say, Costa Rica, Salvador, Guatemala, Honduras, and Nicaragua—will meet in the first fifteen days of November next, in the city of Washington, to discuss the steps to be taken and the measures to be adopted for the purpose of adjusting any differences which exist between the said republics or between any of them, and for the purpose of concluding a treaty which shall define their general relations.

ARTICLE II

The Presidents of the Republics of Central America will invite their Excellencies the Presidents of the United States of America and of the United Mexican States, to appoint, if agreeable to them, respective representatives, who, in a purely friendly character, shall lend their good and impartial offices toward the realization of the purposes of the conference.

ARTICLE III

While the conference is in session and discharging the high mission intrusted to it, the five Central American Republics—that is to say, Costa Rica, Salvador, Guatemala, Honduras, and Nicaragua—agree to maintain among themselves peace and good relations, and they assume, respectively, the obligation not to commit nor permit to be committed any act that can disturb the mutual tranquillity. To such end all display of arms on the respective frontiers shall cease, and the maritime forces shall be withdrawn to their jurisdictional waters.

ARTICLE IV

If, unfortunately, any unforeseen question should arise between any of the said republics while the conference is in session and if it can not be settled by amicable diplomatic course, it is mutually agreed that the interested parties shall submit the difference to the friendly advice of his Excellency the President of the United States of America, or the United Mexican States, or of both Presidents conjointly, according to the case, and in conformity with the agreement to this effect which may be reached.

Signed at Washington, on the seventeenth of September, one thousand nine hundred and seven.

[Here follow signatures.]

No. 193

THIRTY NATIONS

*Second Hague Arbitration Convention (Convention for the pacific settlement of international disputes).—Signed at The Hague, October 18, 1907*¹

His Majesty the German Emperor, King of Prussia; the President of the United States of America; the President of the Argentine Republic; His Majesty the Emperor of Austria, King of Bohemia, etc., and Apostolic King of Hungary; His Majesty the King of the Belgians; the President of the Republic of Bolivia; the President of the Republic of the United States of Brazil; His Royal Highness the Prince of Bulgaria; the President of the Republic of Chile; His Majesty the Emperor of China; the President of the Republic of Colombia; the Provisional Governor of the Republic of Cuba; His Majesty the King of Denmark; the President of the Dominican Republic; the President of the Republic of Ecuador; His Majesty the King of Spain; the President of the French Republic; His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of the Hellenes; the President of the Republic of Guatemala; the President of the Republic of Haiti; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Royal Highness the Grand Duke of Luxemburg, Duke of Nassau; the President of the United States of Mexico; His Royal Highness the Prince of Montenegro; His Majesty the King of Norway; the President of the Republic of

¹ English translation and French original: *United States Statutes at Large*, vol. 36, p. 2199. A Spanish translation may be found in *Leyes de 1911* (Panama), p. 154.

For the First Convention, signed July 29, 1899, see No. 152, *ante*, p. 266.

Ratified and ratifications deposited at The Hague on November 27, 1909, by Austria-Hungary, Bolivia, China, Denmark, Germany, Mexico, Netherlands, Russia, Salvador, Sweden, and the United States; and by Belgium, August 8, 1910; Brazil, January 5, 1914; Cuba, February 22, 1912; France, October 7, 1910; Guatemala, March 15, 1911; Haiti, February 2, 1910; Japan, December 13, 1911; Luxemburg, September 5, 1912; Norway, September 19, 1910; Panama, September 11, 1911; Portugal, April 13, 1911; Rumania, March 1, 1912; Siam, March 12, 1910; Spain, March 18, 1913; and Switzerland, May 12, 1910. The following signatory powers had not yet ratified in 1923: Argentina, Bulgaria, Chile, Colombia, Dominican Republic, Ecuador, Great Britain, Greece, Italy, Montenegro, Paraguay, Persia, Peru, Serbia, Turkey, Uruguay, Venezuela. Nicaragua adhered on December 16, 1909; Poland, May 26, 1922; Finland, June 9, 1922; Czechoslovakia, June 12, 1922.

Instead of following the customary practice in this publication of including the names of the negotiators at the beginning and omitting the signatures at the close, they have been omitted at the beginning and given at the close since some signed with reservations, the character of which is indicated in connection with the signatures. In the act of ratification by the United States an additional reservation declared that recourse to the Permanent Court could be had only in case there should be a separate arbitration treaty, either general or special, between the parties to the dispute.

Panama; the President of the Republic of Paraguay; Her Majesty the Queen of the Netherlands; the President of the Republic of Peru; His Imperial Majesty the Shah of Persia; His Majesty the King of Portugal and of the Algarves, etc.; His Majesty the King of Rumania; His Majesty the Emperor of All the Russias; the President of the Republic of Salvador; His Majesty the King of Serbia; His Majesty the King of Siam; His Majesty the King of Sweden; the Swiss Federal Council; His Majesty the Emperor of the Ottomans; the President of the Oriental Republic of Uruguay; the President of the United States of Venezuela:

Animated by the sincere desire to work for the maintenance of general peace;

Resolved to promote by all the efforts in their power the friendly settlement of international disputes;

Recognizing the solidarity uniting the members of the society of civilized nations;

Desirous of extending the empire of law and of strengthening the appreciation of international justice;

Convinced that the permanent institution of a tribunal of arbitration accessible to all, in the midst of independent powers, will contribute effectively to this result;

Having regard to the advantages attending the general and regular organization of the procedure of arbitration;

Sharing the opinion of the august initiator of the international peace conference that it is expedient to record in an international agreement the principles of equity and right on which are based the security of states and the welfare of peoples;

Being desirous, with this object, of insuring the better working in practice of commissions of inquiry and tribunals of arbitration, and of facilitating recourse to arbitration in cases which allow of a summary procedure;

Have deemed it necessary to revise in certain particulars and to complete the work of the first peace conference for the pacific settlement of international disputes;

The high contracting parties have resolved to conclude a new convention for this purpose, and have appointed the following as their plenipotentiaries:

[Here follow the names of plenipotentiaries.]

Who, after having deposited their full powers, found in good and due form, have agreed upon the following:

PART I.—THE MAINTENANCE OF GENERAL PEACE

ARTICLE I

With a view to obviating as far as possible recourse to force in the relations between states, the contracting powers agree to use their best efforts to ensure the pacific settlement of international differences.

PART II.—GOOD OFFICES AND MEDIATION

ARTICLE II

In case of serious disagreement or dispute, before an appeal to arms, the contracting powers agree to have recourse, as far as circumstances allow, to the good offices or mediation of one or more friendly powers.

ARTICLE III

Independently of this recourse, the contracting powers deem it expedient and desirable that one or more powers, strangers to the dispute, should, on their own initiative and as far as circumstances may allow, offer their good offices or mediation to the states at variance.

Powers strangers to the dispute have the right to offer good offices or mediation even during the course of hostilities.

The exercise of this right can never be regarded by either of the parties in dispute as an unfriendly act.

ARTICLE IV

The part of the mediator consists in reconciling the opposing claims and appeasing the feelings of resentment which may have arisen between the states at variance.

ARTICLE V

The functions of the mediator are at an end when once it is declared, either by one of the parties to the dispute or by the mediator himself, that the means of reconciliation proposed by him are not accepted.

ARTICLE VI

Good offices and mediation undertaken either at the request of the parties in dispute or on the initiative of powers strangers to the dispute have exclusively the character of advice, and never have binding force.

ARTICLE VII

The acceptance of mediation can not, unless there be an agreement to the contrary, have the effect of interrupting, delaying, or hindering mobilization or other measures of preparation for war.

If it takes place after the commencement of hostilities, the military operations in progress are not interrupted in the absence of an agreement to the contrary.

ARTICLE VIII

The contracting powers are agreed in recommending the application, when circumstances allow, of special mediation in the following form:

In case of a serious difference endangering peace, the states at variance choose respectively a power, to which they intrust the mission of entering into direct communication with the power chosen on the other side, with the object of preventing the rupture of pacific relations.

For the period of this mandate, the term of which, unless otherwise stipulated, can not exceed thirty days, the states in dispute cease from all direct communication on the subject of the dispute, which is regarded as referred exclusively to the mediating powers, which must use their best efforts to settle it.

In case of a definite rupture of pacific relations, these powers are charged with the joint task of taking advantage of any opportunity to restore peace.

PART III.—INTERNATIONAL COMMISSIONS OF INQUIRY

ARTICLE IX

In disputes of an international nature involving neither honor nor vital interests, and arising from a difference of opinion on points of fact, the contracting powers deem it expedient and desirable that the parties who have not been able to come to an agreement by means of diplomacy, should, as far as circumstances allow, institute an international commission of inquiry, to facilitate a solution of these disputes by elucidating the facts by means of an impartial and conscientious investigation.

ARTICLE X

International commissions of inquiry are constituted by special agreement between the parties in dispute.

The inquiry convention defines the facts to be examined; it determines the mode and time in which the commission is to be formed and the extent of the powers of the commissioners.

It also determines, if there is need, where the commission is to sit, and whether it may remove to another place, the language the commission shall use and the languages the use of which shall be authorized before it, as well as the date on which each party must deposit its statement of facts, and, generally speaking, all the conditions upon which the parties have agreed.

If the parties consider it necessary to appoint assessors, the convention of inquiry shall determine the mode of their selection and the extent of their powers.

ARTICLE XI

If the inquiry convention has not determined where the commission is to sit, it will sit at The Hague.

The place of meeting, once fixed, can not be altered by the commission except with the assent of the parties.

If the inquiry convention has not determined what languages are to be employed, the question shall be decided by the commission.

ARTICLE XII

Unless an undertaking is made to the contrary, commissions of inquiry shall be formed in the manner determined by Articles XLV and LVII of the present convention.

ARTICLE XIII

Should one of the commissioners or one of the assessors, should there be any, either die, or resign, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

ARTICLE XIV

The parties are entitled to appoint special agents to attend the commission of inquiry, whose duty it is to represent them and to act as intermediaries between them and the commission.

They are further authorized to engage counsel or advocates, appointed by themselves, to state their case and uphold their interests before the commission.

ARTICLE XV

The International Bureau of the Permanent Court of Arbitration acts as registry for the commissions which sit at The Hague,

and shall place its offices and staff at the disposal of the contracting powers for the use of the commission of inquiry.

ARTICLE XVI

If the commission meets elsewhere than at The Hague, it appoints a secretary general, whose office serves as registry.

It is the function of the registry, under the control of the president, to make the necessary arrangements for the sittings of the commission, the preparation of the minutes, and, while the inquiry lasts, for the charge of the archives, which shall subsequently be transferred to the International Bureau at The Hague.

ARTICLE XVII

In order to facilitate the constitution and working of commissions of inquiry, the contracting powers recommend the following rules, which shall be applicable to the inquiry procedure in so far as the parties do not adopt other rules.

ARTICLE XVIII

The commission shall settle the details of the procedure not covered by the special inquiry convention or the present convention, and shall arrange all the formalities required for dealing with the evidence.

ARTICLE XIX

On the inquiry both sides must be heard.

At the dates fixed, each party communicates to the commission and to the other party the statements of facts, if any, and, in all cases, the instruments, papers, and documents which it considers useful for ascertaining the truth, as well as the list of witnesses and experts whose evidence it wishes to be heard.

ARTICLE XX

The commission is entitled, with the assent of the powers, to move temporarily to any place where it considers it may be useful to have recourse to this means of inquiry or to send one or more of its members. Permission must be obtained from the state on whose territory it is proposed to hold the inquiry.

ARTICLE XXI

Every investigation, and every examination of a locality, must be made in the presence of the agents and counsel of the parties or after they have been duly summoned.

ARTICLE XXII

The commission is entitled to ask from either party for such explanations and information as it considers necessary.

ARTICLE XXIII

The parties undertake to supply the commission of inquiry, as fully as they may think possible, with all means and facilities necessary to enable it to become completely acquainted with, and to accurately understand, the facts in question.

They undertake to make use of the means at their disposal, under their municipal law, to insure the appearance of the witnesses or experts who are in their territory and have been summoned before the commission.

If the witnesses or experts are unable to appear before the commission, the parties will arrange for their evidence to be taken before the qualified officials of their own country.

ARTICLE XXIV

For all notices to be served by the commission in the territory of a third contracting power, the commission shall apply direct to the government of the said power. The same rule applies in the case of steps being taken on the spot to procure evidence.

The requests for this purpose are to be executed so far as the means at the disposal of the power applied to under its municipal law allow. They can not be rejected unless the power in question considers they are calculated to impair its sovereign rights or its safety.

The commission will equally be always entitled to act through the power on whose territory it sits.

ARTICLE XXV

The witnesses and experts are summoned on the request of the parties or by the commission of its own motion, and, in every case, through the government of the state in whose territory they are.

The witnesses are heard in succession and separately, in the presence of the agents and counsel, and in the order fixed by the commission.

ARTICLE XXVI

The examination of witnesses is conducted by the president.

The members of the commission may however put to each witness

questions which they consider likely to throw light on and complete his evidence, or get information on any point concerning the witness within the limits of what is necessary in order to get at the truth.

The agents and counsel of the parties may not interrupt the witness when he is making his statement, nor put any direct question to him, but they may ask the president to put such additional questions to the witness as they think expedient.

ARTICLE XXVII

The witness must give his evidence without being allowed to read any written draft. He may, however, be permitted by the president to consult notes or documents if the nature of the facts referred to necessitates their employment.

ARTICLE XXVIII

A Minute of the evidence of the witness is drawn up forthwith and read to the witness. The latter may make such alterations and additions as he thinks necessary, which will be recorded at the end of his statement.

When the whole of his statement has been read to the witness, he is asked to sign it.

ARTICLE XXIX

The agents are authorized, in the course of or at the close of the inquiry, to present in writing to the commission and to the other party such statements, requisitions, or summaries of the facts as they consider useful for ascertaining the truth.

ARTICLE XXX

The commission considers its decisions in private and the proceedings are secret.

All questions are decided by a majority of the members of the commission.

If a member declines to vote, the fact must be recorded in the minutes.

ARTICLE XXXI

The sittings of the commission are not public, nor the minutes and documents connected with the inquiry published except in virtue of a decision of the commission taken with the consent of the parties.

ARTICLE XXXII

After the parties have presented all the explanations and evidence, and the witnesses have all been heard, the president declares the inquiry terminated, and the commission adjourns to deliberate and to draw up its report.

ARTICLE XXXIII

The report is signed by all the members of the commission.

If one of the members refuses to sign, the fact is mentioned; but the validity of the report is not affected.

ARTICLE XXXIV

The report of the commission is read at a public sitting, the agents and counsel of the parties being present or duly summoned.

A copy of the report is given to each party.

ARTICLE XXXV

The report of the commission is limited to a statement of facts, and has in no way the character of an award. It leaves to the parties entire freedom as to the effect to be given to the statement.

ARTICLE XXXVI

Each party pays its own expenses and an equal share of the expenses incurred by the commission.

PART IV.—INTERNATIONAL ARBITRATION

CHAPTER I.—*The system of arbitration*

ARTICLE XXXVII

International arbitration has for its object the settlement of disputes between states by judges of their own choice and on the basis of respect for law.

Recourse to arbitration implies an engagement to submit in good faith to the award.

ARTICLE XXXVIII

In questions of a legal nature, and especially in the interpretation or application of international conventions, arbitration is recognized by the contracting powers as the most effective, and, at the same time, the most equitable means of settling disputes which diplomacy has failed to settle.

Consequently, it would be desirable that, in disputes about the above-mentioned questions, the contracting powers should, if the case arose, have recourse to arbitration, in so far as circumstances permit.

ARTICLE XXXIX

The arbitration convention is concluded for questions already existing or for questions which may arise eventually.

It may embrace any dispute or only disputes of a certain category.

ARTICLE XL

Independently of general or private treaties expressly stipulating recourse to arbitration as obligatory on the contracting powers, the said powers reserve to themselves the right of concluding new agreements, general or particular, with a view to extending compulsory arbitration to all cases which they may consider it possible to submit to it.

CHAPTER II.—*The Permanent Court of Arbitration*

ARTICLE XLI

With the object of facilitating an immediate recourse to arbitration for international differences, which it has not been possible to settle by diplomacy, the contracting powers undertake to maintain the Permanent Court of Arbitration, as established by the First Peace Conference, accessible at all times, and operating, unless otherwise stipulated by the parties, in accordance with the rules of procedure inserted in the present convention.

ARTICLE XLII

The Permanent Court is competent for all arbitration cases, unless the parties agree to institute a special tribunal.

ARTICLE XLIII

The Permanent Court sits at The Hague.

An International Bureau serves as registry for the Court. It is the channel for communications relative to the meetings of the Court; it has charge of the archives and conducts all the administrative business.

The contracting powers undertake to communicate to the Bureau, as soon as possible, a certified copy of any conditions of ar-

bitration arrived at between them and of any award concerning them delivered by a special tribunal.

They likewise undertake to communicate to the Bureau the laws, regulations, and documents eventually showing the execution of the awards given by the Court.

ARTICLE XLIV

Each contracting power selects four persons at the most, of known competency in questions of international law, of the highest moral reputation, and disposed to accept the duties of arbitrator.

The persons thus selected are inscribed, as members of the Court, in a list which shall be notified to all the contracting powers by the Bureau.

Any alteration in the list of arbitrators is brought by the Bureau to the knowledge of the contracting powers.

Two or more powers may agree on the selection in common of one or more members.

The same person can be selected by different powers. The members of the Court are appointed for a term of six years. These appointments are renewable.

Should a member of the Court die or resign, the same procedure is followed for filling the vacancy as was followed for appointing him. In this case the appointment is made for a fresh period of six years.

ARTICLE XLV

When the contracting powers wish to have recourse to the Permanent Court for the settlement of a difference which has arisen between them, the arbitrators called upon to form the tribunal with jurisdiction to decide this difference must be chosen from the general list of members of the Court.

Failing the direct agreement of the parties on the composition of the arbitration tribunal, the following course shall be pursued:

Each party appoints two arbitrators, of whom one only can be its national or chosen from among the persons selected by it as members of the Permanent Court. These arbitrators together choose an umpire.

If the votes are equally divided, the choice of the umpire is intrusted to a third power, selected by the parties by common accord.

If an agreement is not arrived at on this subject each party selects a different power, and the choice of the umpire is made in concert by the powers thus selected.

If, within two months' time, these two powers can not come to an agreement, each of them presents two candidates taken from the list of members of the Permanent Court, exclusive of the members selected by the parties and not being nationals of either of them. Drawing lots determines which of the candidates thus presented shall be umpire.

ARTICLE XLVI

The tribunal being thus composed, the parties notify to the Bureau their determination to have recourse to the Court, the text of their *compromis*,¹ and the names of the arbitrators.

The Bureau communicates without delay to each arbitrator the *compromis*, and the names of the other members of the tribunal.

The tribunal assembles at the date fixed by the parties. The Bureau makes the necessary arrangements for the meeting.

The members of the tribunal, in the exercise of their duties and out of their own country, enjoy diplomatic privileges and immunities.

ARTICLE XLVII

The Bureau is authorized to place its offices and staff at the disposal of the contracting powers for the use of any special board of arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-contracting powers or between contracting powers and non-contracting powers, if the parties are agreed on recourse to this tribunal.

ARTICLE XLVIII

The contracting powers consider it their duty, if a serious dispute threatens to break out between two or more of them, to remind these latter that the Permanent Court is open to them.

Consequently, they declare that the fact of reminding the parties at variance of the provisions of the present convention, and the advice given to them, in the highest interests of peace, to have recourse to the Permanent Court, can only be regarded as friendly actions.

In case of dispute between two powers, one of them can always address to the International Bureau a note containing a declaration that it would be ready to submit the dispute to arbitration.

¹ The preliminary agreement in an international arbitration defining the point at issue and arranging the procedure to be followed.

The Bureau must at once inform the other power of the declaration.

ARTICLE XLIX

The Permanent Administrative Council, composed of the diplomatic representatives of the contracting powers accredited to The Hague and of the Netherland Minister for Foreign Affairs, who will act as president, is charged with the direction and control of the International Bureau.

The Council settles its rules of procedure and all other necessary regulations.

It decides all questions of administration which may arise with regard to the operations of the Court.

It has entire control over the appointment, suspension, or dismissal of the officials and employees of the Bureau.

It fixes the payments and salaries, and controls the general expenditure.

At meetings duly summoned the presence of nine members is sufficient to render valid the discussions of the Council. The decisions are taken by a majority of votes.

The Council communicates to the contracting powers without delay the regulations adopted by it. It furnishes them with an annual report on the labors of the Court, the working of the administration, and the expenditure. The report likewise contains a résumé of what is important in the documents communicated to the Bureau by the powers in virtue of Article XLIII, paragraphs 3 and 4.

ARTICLE L

The expenses of the Bureau shall be borne by the contracting powers in the proportion fixed for the International Bureau of the Universal Postal Union.

The expenses to be charged to the adhering powers shall be reckoned from the date on which their adhesion comes into force.

CHAPTER III.—*Arbitration procedure*

ARTICLE LI

With a view to encouraging the development of arbitration, the contracting powers have agreed on the following rules, which are applicable to arbitration procedure, unless other rules have been agreed on by the parties.

ARTICLE LII

The powers which have recourse to arbitration sign a *compromis*, in which the subject of the dispute is clearly defined, the time allowed for appointing arbitrators, the form, order, and time in which the communication referred to in Article LXIII must be made, and the amount of the sum which each party must deposit in advance to defray the expenses.

The *compromis* likewise defines, if there is occasion, the manner of appointing arbitrators, any special powers which may eventually belong to the tribunal, where it shall meet, the language it shall use, and the languages the employment of which shall be authorized before it, and, generally speaking, all the conditions on which the parties are agreed.

ARTICLE LIII

The Permanent Court is competent to settle the *compromis*, if the parties are agreed to have recourse to it for the purpose.

It is similarly competent, even if the request is only made by one of the parties, when all attempts to reach an understanding through the diplomatic channel have failed, in the case of:

1. A dispute covered by a general treaty of arbitration concluded or renewed after the present convention has come into force, and providing for a *compromis* in all disputes and not either explicitly or implicitly excluding the settlement of the *compromis* from the competence of the Court. Recourse can not, however, be had to the Court if the other party declares that in its opinion the dispute does not belong to the category of disputes which can be submitted to compulsory arbitration, unless the treaty of arbitration confers upon the arbitration tribunal the power of deciding this preliminary question.

2. A dispute arising from contract debts claimed from one power by another power as due to its nationals, and for the settlement of which the offer of arbitration has been accepted. This arrangement is not applicable if acceptance is subject to the condition that the *compromis* should be settled in some other way.

ARTICLE LIV

In the cases contemplated in the preceding article, the *compromis* shall be settled by a commission consisting of five members selected in the manner arranged for in Article XLV, paragraphs 3 to 6.

The fifth member is president of the commission *ex officio*.

ARTICLE LV

The duties of arbitrator may be conferred on one arbitrator alone or on several arbitrators selected by the parties as they please, or chosen by them from the members of the Permanent Court of Arbitration established by the present convention.

Failing the constitution of the tribunal by direct agreement between the parties, the course referred to in Article XLV, paragraphs 3 to 6, is followed.

ARTICLE LVI

When a sovereign or the chief of a state is chosen as arbitrator, the arbitration procedure is settled by him.

ARTICLE LVII

The umpire is president of the tribunal *ex officio*.

When the tribunal does not include an umpire, it appoints its own president.

ARTICLE LVIII

When the *compromis* is settled by a commission, as contemplated in Article LIV, and in the absence of an agreement to the contrary, the commission itself shall form the arbitration tribunal.

ARTICLE LIX

Should one of the arbitrators either die, retire, or be unable for any reason whatever to discharge his functions, the same procedure is followed for filling the vacancy as was followed for appointing him.

ARTICLE LX

The tribunal sits at The Hague, unless some other place is selected by the parties.

The tribunal can only sit in the territory of a third power with the latter's consent.

The place of meeting once fixed can not be altered by the tribunal, except with the consent of the parties.

ARTICLE LXI

If the question as to what languages are to be used has not been settled by the *compromis*, it shall be decided by the tribunal.

ARTICLE LXII

The parties are entitled to appoint special agents to attend the tribunal to act as intermediaries between themselves and the tribunal.

They are further authorized to retain for the defense of their rights and interests before the tribunal counsel or advocates appointed by themselves for this purpose.

The members of the Permanent Court may not act as agents, counsel, or advocates except on behalf of the power which appointed them members of the Court.

ARTICLE LXIII

As a general rule, arbitration procedure comprises two distinct phases: pleadings and oral discussions.

The pleadings consist in the communication by the respective agents to the members of the tribunal and the opposite party of cases, counter-cases, and, if necessary, of replies; the parties annex thereto all papers and documents called for in the case. This communication shall be made either directly or through the intermediary of the International Bureau, in the order and within the time fixed by the *compromis*.

The time fixed by the *compromis* may be extended by mutual agreement by the parties, or by the tribunal when the latter considers it necessary for the purpose of reaching a just decision.

The discussions consist in the oral development before the tribunal of the arguments of the parties.

ARTICLE LXIV

A certified copy of every document produced by one party must be communicated to the other party.

ARTICLE LXV

Unless special circumstances arise, the tribunal does not meet until the pleadings are closed.

ARTICLE LXVI

The discussions are under the control of the president.

They are only public if it be so decided by the tribunal, with the assent of the parties.

They are recorded in minutes drawn up by the secretaries appointed by the president. These minutes are signed by the president and by one of the secretaries and alone have an authentic character.

ARTICLE LXVII

After the close of the pleadings, the tribunal is entitled to refuse discussion of all new papers or documents which one of the parties may wish to submit to it without the consent of the other party.

ARTICLE LXVIII

The tribunal is free to take into consideration new papers or documents to which its attention may be drawn by the agents or counsel of the parties.

In this case, the tribunal has the right to require the production of these papers or documents, but is obliged to make them known to the opposite party.

ARTICLE LXIX

The tribunal can, besides, require from the agents of the parties the production of all papers, and can demand all necessary explanations. In case of refusal the tribunal takes note of it.

ARTICLE LXX

The agents and the counsel of the parties are authorized to present orally to the tribunal all the arguments they may consider expedient in defense of their case.

ARTICLE LXXI

They are entitled to raise objections and points. The decisions of the tribunal on these points are final and can not form the subject of any subsequent discussion.

ARTICLE LXXII

The members of the tribunal are entitled to put questions to the agents and counsel of the parties, and to ask them for explanations on doubtful points.

Neither the questions put, nor the remarks made by members of the tribunal in the course of the discussions, can be regarded as an expression of opinion by the tribunal in general or by its members in particular.

ARTICLE LXXIII

The tribunal is authorized to declare its competence in interpreting the *compromis*, as well as the other treaties which may be invoked, and in applying the principles of law.

ARTICLE LXXIV

The tribunal is entitled to issue rules of procedure for the conduct of the case, to decide the forms, order, and time in which each party must conclude its arguments, and to arrange all the formalities required for dealing with the evidence.

ARTICLE LXXV

The parties undertake to supply the tribunal, as fully as they consider possible, with all the information required for deciding the case.

ARTICLE LXXVI

For all notices which the tribunal has to serve in the territory of a third contracting power, the tribunal shall apply direct to the government of that power. The same rule applies in the case of steps being taken to procure evidence on the spot.

The requests for this purpose are to be executed as far as the means at the disposal of the power applied to under its municipal law allow. They can not be rejected unless the power in question considers them calculated to impair its own sovereign rights or its safety.

The Court will equally be always entitled to act through the power on whose territory it sits.

ARTICLE LXXVII

When the agents and counsel of the parties have submitted all the explanations and evidence in support of their case the president shall declare the discussion closed.

ARTICLE LXXVIII

The tribunal considers its decisions in private and the proceedings remain secret.

All questions are decided by a majority of the members of the tribunal.

ARTICLE LXXIX

The award must give the reasons on which it is based. It contains the names of the arbitrators; it is signed by the president and registrar or by the secretary acting as registrar.

ARTICLE LXXX

The award is read out in public sitting, the agents and counsel of the parties being present or duly summoned to attend.

ARTICLE LXXXI

The award, duly pronounced and notified to the agents of the parties, settles the dispute definitively and without appeal.

ARTICLE LXXXII

Any dispute arising between the parties as to the interpretation and execution of the award shall, in the absence of an agreement to the contrary, be submitted to the tribunal which pronounced it.

ARTICLE LXXXIII

The parties can reserve in the *compromis* the right to demand the revision of the award.

In this case and unless there be an agreement to the contrary, the demand must be addressed to the tribunal which pronounced the award. It can only be made on the ground of the discovery of some new fact calculated to exercise a decisive influence upon the award and which was unknown to the tribunal and to the party which demanded the revision at the time the discussion was closed.

Proceedings for revision can only be instituted by a decision of the tribunal expressly recording the existence of the new fact, recognizing in it the character described in the preceding paragraph, and declaring the demand admissible on this ground.

The *compromis* fixes the period within which the demand for revision must be made.

ARTICLE LXXXIV

The award is not binding except on the parties in dispute.

When it concerns the interpretation of a convention to which powers other than those in dispute are parties, they shall inform all the signatory powers in good time. Each of these powers is entitled to intervene in the case. If one or more avail themselves

of this right, the interpretation contained in the award is equally binding on them.

ARTICLE LXXXV

Each party pays its own expenses and an equal share of the expenses of the tribunal.

CHAPTER IV.—*Arbitration by summary procedure*

ARTICLE LXXXVI

With a view to facilitating the working of the system of arbitration in disputes admitting of a summary procedure, the contracting powers adopt the following rules, which shall be observed in the absence of other arrangements and subject to the reservation that the provisions of Chapter III apply so far as may be.

ARTICLE LXXXVII

Each of the parties in dispute appoints an arbitrator. The two arbitrators thus selected choose an umpire. If they do not agree on this point, each of them proposes two candidates taken from the general list of the members of the Permanent Court exclusive of the members appointed by either of the parties and not being nationals of either of them; which of the candidates thus proposed shall be the umpire is determined by lot.

The umpire presides over the tribunal, which gives its decisions by a majority of votes.

ARTICLE LXXXVIII

In the absence of any previous agreement the tribunal, as soon as it is formed, settles the time within which the two parties must submit their respective cases to it.

ARTICLE LXXXIX

Each party is represented before the tribunal by an agent, who serves as intermediary between the tribunal and the government who appointed him.

ARTICLE XC

The proceedings are conducted exclusively in writing. Each party, however, is entitled to ask that witnesses and experts should be called. The tribunal has, for its part, the right to demand oral

explanations from the agents of the two parties, as well as from the experts and witnesses whose appearance in Court it may consider useful.

PART V.—FINAL PROVISIONS

ARTICLE XCI

The present convention, duly ratified, shall replace, as between the contracting powers, the Convention for the Pacific Settlement of International Disputes of the 29th July, 1899.

ARTICLE XCII

The present convention shall be ratified as soon as possible.

The ratifications shall be deposited at The Hague.

The first deposit of ratifications shall be recorded in a *procès-verbal* signed by the representatives of the powers which take part therein and by the Netherland Minister for Foreign Affairs.

The subsequent deposits of ratifications shall be made by means of a written notification, addressed to the Netherland Government and accompanied by the instrument of ratification.

A duly certified copy of the *procès-verbal* relative to the first deposit of ratifications, of the notifications mentioned in the preceding paragraph, and of the instruments of ratification, shall be immediately sent by the Netherland Government, through the diplomatic channel, to the powers invited to the Second Peace Conference, as well as to those powers which have adhered to the convention. In the cases contemplated in the preceding paragraph, the said government shall at the same time inform the powers of the date on which it received the notification.

ARTICLE XCIII

Non-signatory powers which have been invited to the Second Peace Conference may adhere to the present convention.

The power which desires to adhere notifies its intention in writing to the Netherland Government, forwarding to it the act of adhesion, which shall be deposited in the archives of the said government.

This government shall immediately forward to all the other powers invited to the Second Peace Conference a duly certified copy of the notification as well as of the act of adhesion, mentioning the date on which it received the notification.

ARTICLE XCIV

The conditions on which the powers which have not been invited to the Second Peace Conference may adhere to the present convention shall form the subject of a subsequent agreement between the contracting powers.

ARTICLE XCV

The present convention shall take effect, in the case of the powers which were not a party to the first deposit of ratifications, sixty days after the date of the *procès-verbal* of this deposit, and, in the case of the powers which ratify subsequently or which adhere, sixty days after the notification of their ratification or of their adhesion has been received by the Netherland Government.

ARTICLE XCVI

In the event of one of the contracting parties wishing to denounce the present convention, the denunciation shall be notified in writing to the Netherland Government, which shall immediately communicate a duly certified copy of the notification to all the other powers informing them of the date on which it was received.

The denunciation shall only have effect in regard to the notifying power, and one year after the notification has reached the Netherland Government.

ARTICLE XCVII

A register kept by the Netherland Minister for Foreign Affairs shall give the date of the deposit of ratifications effected in virtue of Article XCII, paragraphs 3 and 4, as well as the date on which the notifications of adhesion (Article XCIII, paragraph 2) or of denunciation (Article XCVI, paragraph 1) have been received.

Each contracting power is entitled to have access to this register and to be supplied with duly certified extracts from it.

In faith whereof the plenipotentiaries have appended their signatures to the present convention.

Done at The Hague, the eighteenth October, 1907, in a single copy, which shall remain deposited in the archives of the Netherland Government, and duly certified copies of which shall be sent, through the diplomatic channel, to the contracting powers.

1. For Germany:

MARSCHALL.

KRIEGE.

2. For the United States of America, with the reservation contained in the declaration made by them in the session of the Conference on October 16, 1907:

JOSEPH H. CHOATE.
HORACE PORTER.
U. M. ROSE.
DAVID JAYNE HILL.
C. S. SPERRY.
WILLIAM I. BUCHANAN.

3. For Argentina:

ROQUE SAENZ PEÑA.
LUIS M. DRAGO.
C. RÚEZ LARRETA.

4. For Austria-Hungary:

MÉREY.
BON MACCHIO.

5. For Belgium:

A. BEERNAERT.
J. VAN DEN HEUVEL.
GUILLAUME.

6. For Bolivia:

CLAUDIO PINILLA.

7. For Brazil, with reservations respecting Article LIII, paragraphs 2, 3, and 4:

RUY BARBOSA.

8. For Bulgaria:

GÉNÉRAL-MAJOR VINAROFF.
IV. KARANDJOULOFF.

9. For Chile, with the reservation contained in the declaration respecting Article XXXIX made on October 7 in the seventh session of the First Commission:

DOMINGO GANA.
AUGUSTO MATTE.
CARLOS CONCHA.

10. For China:

LOUTSENGTSIANG.
TSIENSUN.

11. For Colombia:
JORGE HOLGUIN.
S. PEREZ TRIANA.
M. VARGAS.
12. For the Republic of Cuba:
ANTONIO S. DE BUSTAMANTE.
GONZALO DE QUESADA.
MANUEL SANGUILY.
13. For Denmark:
C. BRUN.
14. For the Dominican Republic:
DR. HENRIQUE Y CARVAJAL.
APOLINAR TEJERA.
15. For Ecuador:
VICTOR M. RENDON.
E. DORN Y DE ALSÚA.
16. For Spain:
W. R. DE VILLA URRUTIA.
JOSÉ DE LA RICA Y CALVO.
GABRIEL MAURA.
17. For France:
LÉON BOURGEOIS.
D'ESTOURNELLES DE CONSTANT.
L. RENAULT.
MARCELLIN PELLET.
18. For Great Britain:
EDW. FRY.
ERNEST SATOW.
REAY.
HENRY HOWARD.
19. For Greece, reserving the second paragraph of Article LIII:
CLÉON RIZO RANGABÉ.
GEORGES STREIT.
20. For Guatemala:
JOSÉ TIBLE MACHADO.

21. For Haiti:

DALBÉMAR JN JOSEPH.
J. N. LÉGER.
PIERRE HUDICOURT.

22. For Italy:

POMPILJ.
G. FUSINATO.

23. For Japan, reserving paragraphs 3 and 4 of Article XLVIII and paragraph 2 of Article LIII and Article LIV:

AIMARO SATO.

24. For Luxemburg:

YESCHEN.
CTE. DE VILLERS.

25. For Mexico:

G. A. ESTEVA.
S. B. DE MIER.
F. L. DE LA BARRA.

26. For Montenegro:

NELIDOW.
MARTENS.
N. TCHARYKOW.

27. For Nicaragua:

28. For Norway:

F. HAGERUP.

29. For Panama:

B. PORRAS.

30. For Paraguay:

J DU MONCEAU.

31. For the Netherlands:

W. H. DE BEAUFORT.
T. M. C. ASSER.
DEN BEER POORTUGAEL.
J. A. RÖELL.
J. A. LOEFF.

32. For Peru:

C. G. CANDAMO.

33. For Persia:
MOMTAZOS-SALTANEH M. SAMAD KHAN.
SADIGH UL MULK M. AHMED KHAN.
34. For Portugal:
MARQUIS DE SOVERAL.
CONDE DE SÉLIR.
ALBERTO D'OLIVEIRA.
35. For Rumania, with the same reservations made by the Rumanian plenipotentiaries at the signing of the Convention for the pacific settlement of international conflicts of July 29, 1899:
EDG. MAVROCORDATO.
36. For Russia:
NELIDOW.
MARTENS.
N. TCHARYKOW.
37. For Salvador:
P. J. MATHEU.
S. PEREZ TRIANA.
38. For Serbia:
S. GROUÏTCH.
M. G. MILOVANOVITCH.
M. G. MILITCHEVITCH.
39. For Siam:
MOM CHATIDEJ UDOM.
C. CORRAGONI D'ORELLI.
LUANG BHÜVANARTH NARÜBAL.
40. For Sweden:
JOH. HELLNER.
41. For Switzerland reserving Article LIII, section 2:
CARLIN.
42. For Turkey, with the reservations in the declaration recorded in the *procès-verbal* of the ninth session of the Conference held on October 16, 1907:
TURKHAN.
43. For Uruguay:
JOSÉ BATLLE Y ORDOÑEZ.
44. For Venezuela:
J. GIL FORTOUL.

No. 194

COSTA RICA—GUATEMALA—HONDURAS—NICARAGUA—
SALVADOR

*Provision for general arbitration in a general treaty of peace.—Signed at Washington, December 20, 1907*¹

ARTICLE I

The Republics of Central America consider as the first of their duties, in their mutual relations, the maintenance of peace; and they bind themselves to observe always the most complete harmony, and to decide every difference or difficulty that may arise amongst them, of whatsoever nature it may be, by means of the Central American Court of Justice, created by the convention which they have concluded for that purpose on this date.

No. 195

COSTA RICA—GUATEMALA—HONDURAS—NICARAGUA—
SALVADOR

*Convention establishing the Central American Court of Justice to act as a Permanent Court of Arbitration.—Signed at Washington, December 20, 1907*²

The Governments of the Republics of Costa Rica, Guatemala, Honduras, Nicaragua and Salvador, for the purpose of efficaciously guaranteeing their rights and maintaining peace and harmony inalterably in their relations, without being obliged to resort in any case to the employment of force, have agreed to conclude a convention for the constitution of a court of justice charged with accomplishing such high aims, and, to that end, have named as delegates:

¹ English: *British and Foreign State Papers*, vol. c, p. 836.

Spanish: Ramirez, *Pactos Internacionales de El Salvador*, vol. I, p. 77.

Ratified by all signatory powers during February and March, 1908. See English source, given *supra*.

See Nos. 193 and 195, both of which are related to this.

² English: *British and Foreign State Papers*, vol. c, p. 841.

Spanish: Ramirez, *Pactos Internacionales de El Salvador*, vol. I, p. 85.

Ratified by all of the signatory states during February and March, 1908.

A correction made in Article III by a protocol signed the same day as the convention has been incorporated in the text as here printed.

See Nos. 193 and 194, which are related to this.

Costa Rica: Their Excellencies Attorney Don Luis Anderson and Don Joaquín B. Calvo;

Guatemala: Their Excellencies Doctor Don Antonio Batres Jáuregui, Doctor Don Luis Toledo Herrarte, and Don Víctor Sánchez Ocaña.

Honduras: Their Excellencies Doctor Don Policarpo Bonilla, Doctor Don Ángel Ugarte, and Don E. Constantino Fiallos;

Nicaragua: Their Excellencies Doctors Don José Madriz and Don Luis F. Corea; and

Salvador: Their Excellencies Doctor Don Salvador Gallegos, Doctor Don Salvador Rodríguez González, and Don Federico Mejía.

By virtue of the invitation sent in accordance with Article II of the Protocol signed at Washington on September 17, 1907, by the plenipotentiary representatives of the five Central American Republics, their excellencies, the representative of the Government of the United Mexican States, Ambassador Don Enrique C. Creel, and the representative of the Government of the United States of America, Mr. William I. Buchanan, were present at all the deliberations.

The delegates, assembled in the Central American Peace Conference at Washington, after having communicated to one another their respective full powers, which they found to be in due form, have agreed to carry out the said purpose in the following manner:

ARTICLE I

The high contracting parties agree by the present convention to constitute and maintain a permanent tribunal which shall be called the "Central American Court of Justice," to which they bind themselves to submit all controversies or questions which may arise among them, of whatsoever nature and no matter what their origin may be, in case the respective Departments of Foreign Affairs should not have been able to reach an understanding.

ARTICLE II

This Court shall also take cognizance of the questions which individuals of one Central American country may raise against any of the other contracting governments, because of the violation of treaties or conventions, and other cases of an international character, no matter whether their own government supports said claim or not; and provided that the remedies which the laws of the respective country provide against such violation shall have been exhausted or that denial of justice shall have been shown.

ARTICLE III

It shall also have jurisdiction over cases arising between any of the contracting governments and individuals, when by common accord they are submitted to it.

ARTICLE IV

The Court can likewise take cognizance of the international questions which by special agreement any one of the Central American Governments and a foreign government may have determined to submit to it.

ARTICLE V

The Central American Court of Justice shall sit at the City of Cartago, in the Republic of Costa Rica, but it may temporarily transfer its residence to another point in Central America whenever it deems it expedient for reasons of health, or in order to insure the exercise of its functions, or of the personal safety of its members.

ARTICLE VI

The Central American Court of Justice shall consist of five justices, one being appointed by each republic and selected from among the jurists who possess the qualifications which the laws of each country prescribe for the exercise of high judicial office, and who enjoy the highest consideration, both because of their moral character and their professional ability.

Vacancies shall be filled by substitute justices, named at the same time and in the same manner as the regular justices and who shall unite the same qualifications as the latter.

The attendance of the five justices who constitute the tribunal is indispensable in order to make a legal quorum in the decisions of the court.

ARTICLE VII

The legislative power of each one of the five contracting republics shall appoint their respective justices, one regular and two substitutes.

The salary of each justice shall be 8,000 dollars, gold, per annum, which shall be paid them by the Treasury of the Court. The salary of the justice of the country where the Court resides shall be fixed by the government thereof. Furthermore, each state shall contribute 2,000 dollars, gold, annually toward the ordinary and extraordinary expenses of the tribunal. The governments of the contracting republics bind themselves to include their respective contributions in

their estimates of expenses and to remit quarterly in advance to the Treasury of the Court the share they may have to bear on account of such services.

ARTICLE VIII

The regular and substitute justices shall be appointed for a term of five years, which shall be counted from the day on which they assume the duties of their office, and they may be reelected.

In case of death, resignation or permanent incapacity of any of them, the vacancy shall be filled by the respective legislature, and the justice elected shall complete the term of his predecessor.

ARTICLE IX

The regular and substitute justices shall take oath or make affirmation prescribed by law before the authority that may have appointed them, and from that moment they shall enjoy the immunities and prerogatives which the present convention confers upon them. The regular justices shall likewise enjoy thenceforth the salary fixed in Article VII.

ARTICLE X

Whilst they remain in the country of their appointment the regular and substitute justices shall enjoy the personal immunity which the respective laws grant to the magistrates of the Supreme Court of Justice, and in the other contracting republics they shall have the privileges and immunities of diplomatic agents.

ARTICLE XI

The office of justice whilst held is incompatible with the exercise of his profession, and with the holding of public office. The same incompatibility applies to the substitute justices so long as they may actually perform their duties.

ARTICLE XII

At its first annual session the Court shall elect from among its own members a President and Vice President; it shall organize the *personnel* of its office by designating a clerk, a treasurer, and such other subordinate employees as it may deem necessary, and it shall draw up the estimate of its expenses.

ARTICLE XIII

The Central American Court of Justice represents the national conscience of Central America, wherefore the justices who compose

the tribunal shall not consider themselves barred from the discharge of their duties because of the interest which the republics, to which they owe their appointment, may have in any case or question. With regard to allegations of personal interest, the rules of procedure which the Court may fix, shall make proper provision.

ARTICLE XIV

When differences or questions subject to the jurisdiction of the tribunal arise, the interested party shall present a complaint which shall comprise all the points of fact and law relative to the matter, and all pertinent evidence. The tribunal shall communicate without loss of time a copy of the complaint to the governments or individuals interested, and shall invite them to furnish their allegations and evidence within the term that it may designate to them, which, in no case, shall exceed sixty days counted from the date of notice of the complaint.

ARTICLE XV

If the term designated shall have expired without answer having been made to the complaint, the Court shall require the complaint or complainants to do so within a further term not to exceed twenty days, after the expiration of which and in view of the evidence presented and of such evidence as it may *ex officio* have seen fit to obtain, the tribunal shall render its decision in the case, which decision shall be final.

ARTICLE XVI

If the government, governments, or individuals sued shall have appeared in time before the Court, presenting their allegations and evidence, the Court shall decide the matter within thirty days following, without further process or proceedings; but if a new term for the presentation of evidence be solicited, the Court shall decide whether or not there is occasion to grant it; and in the affirmative it shall fix therefor a reasonable time. Upon the expiration of such term, the Court shall pronounce its final judgment within thirty days.

ARTICLE XVII

Each one of the governments or individuals directly concerned in the questions to be considered by the Court has the right to be represented before it by a trustworthy person or persons, who shall present evidence, formulate arguments, and shall, within the terms fixed by this convention and by the rules of the Court of Justice do

everything that in their judgment shall be beneficial to the defense of the rights they represent.

ARTICLE XVIII

From the moment in which any suit is instituted against any one or more governments up to that in which a final decision has been pronounced, the Court may at the solicitation of any one of the parties fix the situation in which the contending parties must remain, to the end that the difficulty shall not be aggravated and that things shall be conserved *in statu quo* pending a final decision.

ARTICLE XIX

For all the effects of this convention, the Central American Court of Justice may address itself to the governments or tribunals of justice of the contracting states, through the medium of the Ministry of Foreign Relations or the office of the Clerk of the Supreme Court of Justice of the respective country, according to the nature of the requisite proceeding, in order to have the measures that it may dictate within the scope of its jurisdiction carried out.

ARTICLE XX

It may also appoint special commissioners to carry out the formalities above referred to, when it deems it expedient for their better fulfilment. In such case, it shall ask of the government where the proceeding is to be had its cooperation and assistance, in order that the commissioner may fulfil his mission. The contracting governments formally bind themselves to obey and to enforce the orders of the Court, furnishing all the assistance that may be necessary for their best and most expeditious fulfilment.

ARTICLE XXI

In deciding points of fact that may be raised before it, the Central American Court of Justice shall be governed by its free judgment, and with respect to points of law, by the principles of international law. The final judgment shall cover each one of the points of litigation.

ARTICLE XXII

The Court is competent to determine its jurisdiction, interpreting the treaties and conventions germane to the matter in dispute, and applying the principles of international law.

ARTICLE XXIII

Every final or interlocutory decision shall be rendered with the concurrence of at least three of the justices of the Court. In case of disagreement, one of the substitute justices shall be chosen by lot, and if still a majority of three be not thus obtained other justices shall be successively chosen by lot until three uniform votes shall have been obtained.

ARTICLE XXIV

The decisions must be in writing and shall contain a statement of the reasons upon which they are based. They must be signed by all the justices of the Court and countersigned by the clerk. Once they have been notified they can not be altered on any account; but, at the request of any of the parties, the tribunal may declare the interpretation which must be given to its judgments.

ARTICLE XXV

The judgments of the Court shall be communicated to the five governments of the contracting republics. The interested parties solemnly bind themselves to submit to said judgments, and all agree to lend all moral support that may be necessary in order that they may be properly fulfilled, thereby constituting a real and positive guarantee of respect for this convention and for the Central American Court of Justice.

ARTICLE XXVI

The Court is empowered to make its rules, to formulate the rules of procedure which may be necessary, and to determine the forms and terms not prescribed in the present convention. All the decisions which may be rendered in this respect shall be communicated immediately to the high contracting parties.

ARTICLE XXVII

The high contracting parties solemnly declare that on no ground nor in any case will they consider the present convention as void; and that, therefore, they will consider it as being always in force during the term of ten years counted from the last ratification. In the event of the change or alteration of the political status of one or more of the contracting republics, the functions of the Central American Court of Justice created by this convention shall be suspended *ipso facto*; and a conference to adjust the constitution of said Court to the new order

of things shall be forthwith convoked by the respective governments; in case they do not unanimously agree the present convention shall be considered as rescinded.

ARTICLE XXVIII

The exchange of ratifications of the present convention shall be made in accordance with Article XXI of the general treaty of peace and amity concluded on this date.

Provisional article

As recommended by the five delegations an article is annexed which contains an amplification of the jurisdiction of the Central American Court of Justice, in order that the Legislatures may, if they see fit, include it in this convention upon ratifying it.

Annexed article

The Central American Court of Justice shall also have jurisdiction over the conflicts which may arise between the legislative, executive and judicial powers, and when as a matter of fact the judicial decisions and resolutions of the National Congress are not respected.

Signed at the city of Washington on the twentieth day of December, 1907.

[Here follow signatures.]

No. 196

COSTA RICA—GUATEMALA—HONDURAS—NICARAGUA—
SALVADOR

*Provision for arbitration before the Central American Court of Justice contained in a general treaty of peace and amity.—Signed at Washington, December 20, 1907*¹

ARTICLE I

The Republics of Central America consider as one of their first duties, in their mutual relations, the maintenance of peace; and they bind themselves always to observe the most complete harmony, and decide every difference or difficulty that may arise among them, of whatsoever nature it may be, by means of the Central American

¹ English: *British and Foreign State Papers*, vol. c, p. 836.

Spanish: Ramirez, *Pactos Internacionales de El Salvador*, vol. I, p. 77.

Ratified by all of the signatory states, February and March, 1908. The ratifications were not exchanged in the usual manner; but each government reported its ratification to that of Costa Rica which in turn notified the rest.

Court of Justice, created by the convention for that purpose which they have concluded on this date.

No. 197

COSTA RICA—GUATEMALA—HONDURAS—NICARAGUA— SALVADOR

*Convention for the establishment of a Central American Court of Justice, to which all disputes should be submitted.—Signed at Washington, December 20, 1907*¹

ARTICLE I

The high contracting parties agree by the present convention to constitute and maintain a permanent tribunal which shall be called the "Central American Court of Justice," to which they bind themselves to submit all controversies or questions which may arise among them, of whatsoever nature and no matter what their origin may be, in case the respective Departments of Foreign Affairs should not have been able to reach an understanding.

ARTICLE II

This Court shall also take cognizance of the questions which individuals of one Central American country may raise against any of the other contracting governments, because of the violation of treaties or conventions, and other cases of an international character; no matter whether their own government supports the claim or not; and provided that the remedies which the laws of the respective country provide against such violation shall have been exhausted or that denial of justice shall have been shown.

ARTICLE III

It shall also have jurisdiction over cases arising between any of the contracting governments and individuals, when by common accord they are submitted to it.

¹ English: *British and Foreign State Papers*, vol. c, p. 842.

Spanish: Ramirez, *Pactos Internacionales de El Salvador*, vol. I, p. 85.

Ratified by all signatory states, February and March, 1908. Ratifications were not exchanged in the usual manner; but each state gave notice of its ratification to Costa Rica, which government in turn notified all of the rest.

Only the first five articles are printed. The remainder of the twenty-eight articles are devoted to describing the organization and procedure of the court.

The third article as here printed conforms to the reading agreed upon in an additional protocol signed the same day as the convention.

ARTICLE IV

The Court can likewise take cognizance of the international questions which by special agreement any one of the Central American Governments and a foreign government may have determined to submit to it.

ARTICLE V

The Central American Court of Justice shall sit at Cartago, in the Republic of Costa Rica, but it may temporarily transfer its residence to another point in Central America whenever it deems it expedient for reasons of health, or in order to insure the exercise of its functions, or of the personal safety of its members.

No. 198

HONDURAS—MEXICO

*Provisions for arbitration in a treaty of amity, commerce, and navigation.—Signed at Mexico, March 24, 1908*¹

ARTICLE I

There shall be perpetual peace and friendship between the Republic of Mexico and the Republic of Honduras, as well as between their respective citizens, without exception of persons or place.

If unfortunately there should arise any disagreement or conflict between the two high contracting parties, both shall endeavor to settle it peaceably and amicably through diplomatic channels; but if, notwithstanding such mutual good will, a settlement is not reached, the high contracting parties do solemnly agree to submit the controversy to arbitration, provided, however, the question in dispute does not constitute an attack upon or an offense against their national integrity or dignity.

As soon as an arbitrator has been appointed, and he has accepted his office, the high contracting parties shall enter into a special agreement which shall determine clearly and precisely the question in dispute, as well as the manner in which the arbitral proceedings shall be conducted.

Should the high contracting parties fail to come to an understanding in regard to the points to be included in the said agreement, all points

¹ English: *American Journal of International Law*, Supplement, vol. vi, pp. 193, 206.

Spanish: Mexico, *Diario Oficial*, vol. cx (1910), pp. 384, 390.

Ratifications exchanged September 30, 1910.

which are considered disputable shall be submitted by the high contracting parties to the decision of the arbitrator who, thereupon, shall be authorized to define beforehand the procedure to be followed in the arbitration.

Should the high contracting parties fail to agree upon the designation of the arbitrator, there shall be constituted an arbitration commission to be composed of one or more individuals, appointed in equal number by each side, to which commission shall be submitted the questions in dispute. The award of this commission shall be final, and compliance therewith obligatory upon each of the two governments. The arbitrators so elected shall have power to appoint an umpire.

ARTICLE XXV

The high contracting parties expressly pledge themselves not to order or authorize any act or regulation of any kind which violates or infringes one or more of the articles of this treaty. The controversies which may arise on this account shall be settled in accordance with the procedure stipulated in Article I of this treaty. If the violation or infraction should be committed by the citizens of one of the high contracting parties, the person or persons so violating the same shall be directly liable, said party agreeing that the infractor shall be sued and punished in accordance with its laws, without this being sufficient cause to disturb the friendship and amity existing between the two contracting parties.

No. 199

MEXICO—UNITED STATES

*General arbitration convention.—Signed at Washington, March 24, 1908*¹

The Government of the United States of America and the Government of Mexico, signatories of the convention for the pacific settlement of international disputes, concluded at The Hague on the 29th of July, 1899;

Taking into consideration that by Article XIX of that convention the high contracting parties have reserved to themselves the right of

¹ English: *United States Statutes at Large*, vol. 35, p. 1997.

Spanish: Mexico, *Tratados y Convenciones Vigentes*, 1909, vol. I, p. 323.

Ratifications exchanged at Washington, June 27, 1908.

concluding agreements, with a view to referring to arbitration all questions which they shall consider it possible to submit to such treatment;

Have authorized the undersigned to conclude the following arrangement:

ARTICLE I

Differences which may arise whether of a legal nature or relative to the interpretation of the treaties existing between the two contracting parties and which it may not have been possible to settle by diplomacy, in case no other arbitration should have been agreed upon, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th July 1899, provided that they do not affect the vital interests, the independence, or the honor of either of the contracting parties and do not prejudice the interests of a third party.

ARTICLE II

In each individual case, the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrators and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that such special agreements shall be made by the Presidents of both contracting countries by and with the advice and consent of their respective Senates.

ARTICLE III

The foregoing stipulations in no wise annul, but on the contrary define, confirm and continue in effect the declarations and rules contained in Article XXI of the treaty of peace, friendship and boundaries between the United States and Mexico signed at the city of Guadalupe Hidalgo on the second of February one thousand eight hundred and forty-eight.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the Government of Mexico in accordance with its constitution and laws. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

ARTICLE V

The present convention is concluded for a period of five years dating from the day of the exchange of its ratifications.

Done in duplicate at the City of Washington, in the English and Spanish languages, this twenty-fourth day of March in the year 1908. [Here follow signatures.]

No. 200

BRAZIL—COLOMBIA

*Provision for the arbitration of disputes arising from the interpretation of a treaty of commerce and navigation.—Signed at Rio de Janeiro, August 21, 1908*¹

ARTICLE XVI

Any disagreement as to the meaning or execution of this treaty shall be adjusted by arbitration.

No. 201

PERU—UNITED STATES

*General arbitration convention for settling disputes before the Hague Court of Arbitration.—Signed at Washington, December 5, 1908*²

The Government of the United States of America, signatory of the two conventions for the pacific settlement of international disputes, concluded at The Hague, respectively, on July 29, 1899, and October 18, 1907, and the Government of the Republic of Peru, adherent to the said convention of July 29, 1899, and signatory of the said convention of October 18, 1907;

Taking into consideration that by Article XIX of the convention of July 29, 1899, and by Article XL of the convention of October 18, 1907, the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the undersigned to conclude the following convention:

¹ English: *American Journal of International Law*, Supplement, vol. v, p. 82.

Portuguese and Spanish: *Tratados Públicos de Colombia*, 1913, p. 18.

Ratifications exchanged at Bogotá, August 6, 1910.

² English and Spanish: *United States Statutes at Large*, vol. 36, p. 2169.

Ratifications exchanged at Washington, June 29, 1909.

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th July, 1899, for the pacific settlement of international disputes, and maintained by The Hague Convention of the 18th October, 1907; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting states, and do not concern the interests of third parties.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Peru shall be subject to the procedure required by the constitution and laws thereof.

ARTICLE III

The present convention is concluded for a period of five years and shall remain in force thereafter until one year's notice of termination shall be given by either party.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Peru in accordance with the constitution and laws thereof. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and Spanish languages at Washington, this fifth day of December, in the year one thousand nine hundred and eight.

[Here follow signatures.]

No. 202

SALVADOR—UNITED STATES

*General arbitration convention for settling disputes before the Hague Court of Arbitration.—Signed at Washington, December 21, 1908*¹

The Government of the United States of America, signatory of the two conventions for the pacific settlement of international disputes, concluded at The Hague, respectively, on July 29, 1899, and October 18, 1907, and the Government of the Republic of Salvador, adherent to the said convention of July 29, 1899, and signatory of the said convention of October 18, 1907;

Taking into consideration that by Article XIX of the convention of July 29, 1899, and by Article XL of the convention of October 18, 1907, the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the undersigned to conclude the following convention:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the twenty-ninth July, 1899, for the pacific settlement of international disputes, and maintained by The Hague Convention of the eighteenth October, 1907; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting states, and do not concern the interests of third parties.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure.

¹ English and Spanish: *United States Statutes at Large*, vol. 36, p. 2172.

Ratifications exchanged at Washington, July 3, 1909.

This was extended for an additional term of five years by a convention dated May 13, 1914.

It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Salvador shall be subject to the procedure required by the constitution and laws thereof.

ARTICLE III

The present convention is concluded for a period of five years and shall remain in force thereafter until one year's notice of termination shall be given by either party.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Salvador in accordance with the constitution and laws thereof. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and Spanish languages at Washington, this twenty-first day of December, one thousand nine hundred and eight.

[Here follow signatures.]

No. 203

ECUADOR—UNITED STATES

*General arbitration convention for the settlement of disputes before the Hague Court of Arbitration.—Signed at Washington, January 7, 1909*¹

The Government of the United States of America, signatory of the two conventions for the pacific settlement of international disputes, concluded at The Hague, respectively, on July 29, 1899, and October 18, 1907, and the Government of the Republic of Ecuador, adherent to the said convention of July 29, 1899, and signatory of the said convention of October 18, 1907;

Taking into consideration that by Article XIX of the convention of July 29, 1899, and by Article XL of the convention of October 18, 1907, the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration

¹ English and Spanish: *United States Statutes at Large*, vol. 36, p. 2456.
Ratifications exchanged at Washington, June 22, 1909.

all questions which they shall consider possible to submit to such treatment;

Have authorized the undersigned to conclude the following convention:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the twenty-ninth July, 1899, for the pacific settlement of international disputes, and maintained by The Hague Convention of the eighteenth October, 1907; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting states, and do not concern the interests of third parties.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Ecuador shall be subject to the procedure required by the Constitution and laws thereof.

ARTICLE III

The present convention is concluded for a period of five years and shall remain in force thereafter until one year's notice of termination shall be given by either party.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Ecuador in accordance with the Constitution and laws thereof. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate, in the English and Spanish languages, at Washington, this seventh day of January, in the year one thousand nine hundred and nine.

[Here follow signatures.]

No. 204

HAITI—UNITED STATES

*General arbitration convention for the settlement of disputes before the Hague Court of Arbitration.—Signed at Washington, January 7, 1909*¹

The Government of the United States of America, signatory of the two conventions for the pacific settlement of international disputes, concluded at The Hague, respectively, on July 29, 1899, and October 18, 1907, and the Government of the Republic of Haiti, adherent to the said convention of July 29, 1899, and signatory of the said convention of October 18, 1907;

Taking into consideration that by Article XIX of the convention of July 29, 1899, and by Article XL of the convention of October 18, 1907, the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the undersigned to conclude the following convention:

ARTICLE I

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall, if not submitted to some other arbitral jurisdiction, be referred to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, for the pacific settlement of international disputes, and maintained by the Hague Convention of the eighteenth October, 1907; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting states, and do not concern the interests of third parties.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a

¹ English and French: *United States Statutes at Large*, vol. 36, p. 2193. Ratifications exchanged at Washington, November 15, 1909.

special agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Haiti shall be subject to the procedure required by the Constitution and laws thereof.

ARTICLE III

The present convention is concluded for a period of five years and shall remain in force thereafter until one year's notice of termination shall be given by either party.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Haiti in accordance with the Constitution and laws thereof. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and French languages at Washington, this seventh day of January, in the year one thousand nine hundred and nine.

[Here follow signatures.]

No. 205

URUGUAY—UNITED STATES

*General arbitration convention for the settlement of international disputes before the Hague Court of Arbitration.—Signed at Washington, January 9, 1909*¹

The Government of the United States of America, signatory of the two conventions for the pacific settlement of international disputes, concluded at The Hague, respectively, on July 29, 1899, and October 18, 1907, and the Government of the Republic of Uruguay, adherent to the said convention of July 29, 1899, and signatory of the said convention of October 18, 1907;

Taking into consideration that by Article XIX of the convention

¹ English and Spanish: *United States Statutes at Large*, vol. 38, p. 1741.

Ratifications exchanged at Washington, November 14, 1913.

of July 29, 1899, and by Article XL of the convention of October 18, 1907, the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the undersigned to conclude the following convention:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the twenty-ninth July, 1899, for the pacific settlement of international disputes, and maintained by the Hague Convention of the 18th October, 1907; provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting states, and do not concern the interests of third parties.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Uruguay shall be subject to the procedure required by the Constitution and laws thereof.

ARTICLE III

The present convention is concluded for a period of five years and shall remain in force thereafter until one year's notice of termination shall be given by either party.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Uruguay in accordance with the Constitution and laws thereof. The ratifications shall be ex-

changed at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and Spanish languages at Washington, this ninth day of January, one thousand nine hundred and nine.

[Here follow signatures.]

No. 206

COSTA RICA—UNITED STATES

*General arbitration convention for submitting disputes to the Hague Court of Arbitration.—Signed at Washington, January 13, 1909*¹

The Government of the United States of America, signatory of the Hague Convention for the pacific settlement of international disputes, concluded at The Hague on July 29, 1899, and the Government of the Republic of Costa Rica, being desirous of referring to arbitration all questions which they shall consider possible to submit to such treatment;

Taking into consideration that by Article XXVI of the said convention the jurisdiction of the Permanent Court of Arbitration established at The Hague by that convention may, within the conditions laid down in the regulations, be extended to disputes between signatory powers and non-signatory powers, if the parties are agreed on recourse to that Tribunal;

Have authorized the undersigned to conclude the following convention:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the convention of the 29th July, 1899, for the pacific settlement of international disputes, provided, nevertheless, that they do not affect the vital interest, the independence, or the honor of the two contracting states, and do not concern the interests of third parties.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special

¹ English and Spanish: *United States Statutes at Large*, vol. 36, p. 2175.
Ratifications exchanged at Washington, July 20, 1909.

agreement, defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Costa Rica shall be subject to the procedure required by the constitution and laws thereof.

ARTICLE III

The present convention is concluded for a period of five years, and shall remain in force thereafter until one year's notice of termination shall be given by either party.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Costa Rica in accordance with the Constitution and laws thereof. The ratifications shall be exchanged at Washington as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and Spanish languages at Washington, this thirteenth day of January, in the year one thousand nine hundred and nine.

[Here follow signatures.]

No. 207

BRAZIL—UNITED STATES

*General arbitration convention for settling disputes before the Hague Court of Arbitration.—Signed at Washington, January 23, 1909*¹

The President of the United States of America and the President of the United States of Brazil, desiring to conclude an arbitration convention in pursuance of the principles set forth in Articles XV to XIX and in Article XXI of the Convention for the pacific settlement of international disputes, signed at The Hague on July 29th, 1899, and in Articles XXXVII to XL and Article XLII of the Convention signed at the same city of the Hague on October 18th, 1907, have named as their plenipotentiaries, to wit:

The President of the United States of America, Elihu Root, Secretary of State of the United States; and

¹ English and Portuguese: *United States Statutes at Large*, vol. 37, p. 1535. Ratifications exchanged at Washington, July 26, 1911.

The President of the United States of Brazil, His Excellency Senhor Joaquim Nabuco, Ambassador Extraordinary and Plenipotentiary to the Government of the United States of America, Member of the Permanent Court of Arbitration of The Hague;

Who, after having communicated to one another their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

Differences which may arise of a legal nature or relating to the interpretation of treaties existing between the two high contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two high contracting parties, and do not concern the interests of third parties, and it being further understood that in case either of the two high contracting parties shall so elect any arbitration pursuant hereto shall be had before the chief of a friendly state or arbitrators selected without limitation to the lists of the aforesaid Hague Tribunal.

ARTICLE II

In each individual case the two high contracting parties, before appealing to the Permanent Court of Arbitration of The Hague or to other arbitrators or arbitrator, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrator or arbitrators and the periods to be fixed for the formation of the court, or for the selection of the arbitrator or arbitrators, and for the several stages of the procedure. It is understood that on the part of the United States of America such special agreement will be made by the President of the United States of America by and with the advice and consent of the Senate thereof, and by the President of the United States of Brazil with the approval of the two Houses of the Federal Congress thereof.

ARTICLE III

The present convention will be in force for a period of five years, dating from the day of the exchange of its ratifications, and, if not denounced six months before the end of the aforesaid term, will be renewed for an equal period of five years, and so on, successively.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of the United States of Brazil, with the authorization of the Federal Congress thereof. The ratifications shall be exchanged in the city of Washington as soon as possible, and the convention shall take effect immediately after the exchange of the ratifications.

In testimony whereof, we, the aforesaid plenipotentiaries, have signed the present instrument in duplicate, in the English and Portuguese languages, and have affixed thereto our seals.

Done in the city of Washington, this twenty-third day of January, in the year one thousand nine hundred and nine.

[Here follow signatures.]

No. 208

UNITED STATES—VENEZUELA

*Protocol of an agreement to arbitrate certain claims before the Hague Court of Arbitration.—Signed at Carácas, February 13, 1909*¹

William I. Buchanan, High Commissioner, representing the President of the United States of America, and Doctor Francisco González Guinán, Minister for Foreign Affairs of the United States of Venezuela, duly authorized by General Juan Vicente Gomez, Vice President of the United States of Venezuela, in charge of the Presidency of the Republic, having exhibited to each other and found in due form their respective powers, and animated by the spirit of sincere friendship that has always existed and should exist between the two nations they represent, having conferred during repeated and lengthy conferences concerning the manner of amicably and equitably adjusting the differences existing between their respective governments with regard to the claims pending between them, since neither the United States of America nor the United States of Venezuela aspires to anything other than sustaining that to which in justice and equity it is entitled; and

¹ English and Spanish: *United States Treaty Series*, No. 522½.

Modified by an exchange of notes at Bogotá, September 13 and 14, 1909.

The instrument makes no provision for ratification or the exchange of ratifications. It was approved by the Government of the United States and was transmitted to the United States Senate for its information. See note of September 13, 1909, following the protocol.

as a result of these conferences have recognized the great importance of arbitration as a means toward maintaining the good understanding which should exist and increase between their respective nations, and to the end of avoiding hereafter, so far as possible, differences between them, they believe it is from every point of view desirable that a treaty of arbitration shall be adjusted between their respective governments.

With respect to the claims that have been the subject of their long and friendly conferences, William I. Buchanan and Doctor Francisco González Guinán have found that the opinions and views concerning them sustained by their respective governments have been, and are, so diametrically opposed and so different that they have found it difficult to adjust them by common accord; wherefore it is necessary to resort to the conciliatory means of arbitration, a measure to which the two nations they represent are mutually bound by their signatures to the treaties of the Second Peace Conference at The Hague in 1907, and one which is recognized by the entire civilized world as the only satisfactory means of terminating international disputes.

Being so convinced, and firm in their resolution not to permit, for any reason whatever, the cordiality that has always existed between their respective countries to be disturbed, the said William I. Buchanan and Doctor Francisco González Guinán, thereunto fully authorized, have adjusted, agreed to and signed the present protocol for the settlement of the said claims against the United States of Venezuela, which are as follows:

1. The claim of the United States of America on behalf of the Orinoco Steamship Company;
2. The claim of the United States of America on behalf of the Orinoco Corporation and of its predecessors in interest, The Manoa Company Limited, The Orinoco Company and The Orinoco Company Limited; and,
3. The claim of the United States of America on behalf of the United States and Venezuela Company, also known as the Crichfield claim.

ARTICLE I

With respect to the first of these claims, that of the Orinoco Steamship Company, the United States of Venezuela has upheld the immutability of the arbitral decision of Umpire Barge, rendered in this case, alleging that said decision does not suffer from any of the causes which by universal jurisprudence give rise to its nullity, but rather that it is

of an unappealable character, since the *compromis* of arbitration can not be considered as void, nor has there been an excessive exercise of jurisdiction, nor can the corruption of the judges be alleged, nor an essential error in the judgment; while on the other hand, the United States of America, citing practical cases, among them the case of the revision, with the consent of the United States of America, of the arbitral awards rendered by the American-Venezuelan Mixed Commission created by the Convention of April 25, 1866, and basing itself on the circumstances of the case, considering the principles of international law and of universal jurisprudence, has upheld not only the admissibility but the necessity of the revision of said award; in consequence of this situation, William I. Buchanan and Doctor Francisco González Guinán, in the spirit that has marked their conferences, have agreed to submit this case to the elevated criterion of the arbitral tribunal created by this protocol, in the following form:

The arbitral tribunal shall first decide whether the decision of Umpire Barge, in this case, in view of all the circumstances and under the principles of international law, is not void, and whether it must be considered so conclusive as to preclude a reexamination of the case on its merits. If the arbitral tribunal decides that said decision must be considered final, the case will be considered by the United States of America as closed; but on the other hand, if the arbitral tribunal decides that said decision of Umpire Barge should not be considered as final, said arbitral tribunal shall then hear, examine and determine the case and render its decision on the merits.

ARTICLE II

During the many conferences regarding the matter of the United States of America on behalf of the Orinoco Corporation and of its predecessors in interest against the United States of Venezuela, held between William I. Buchanan, High Commissioner, representing the President of the United States of America, and Doctor Francisco González Guinán, Minister for Foreign Affairs of Venezuela, they have found the views and conclusions held and maintained by their respective governments with respect to the rights and claims of the claimant company so diametrically opposed to each other, as to make it impossible to reconcile them through the medium of direct negotiations between their governments.

Among these they have encountered the allegation of the United

States of America, on behalf of the claimant company, that by the act of the National Congress of Venezuela, and by resolutions and other acts of the Executive Power thereof, the rights and claims insisted upon and claimed, by the United States of America on behalf of the claimant company, in and under the Fitzgerald concession, the origin of the present case, are firmly recognized and affirmed as subsistent and valid, and that the Government of Venezuela has insisted and insists that the decision of Umpire Barge of April 12, 1904, which Venezuela considers irrevocable, and the decision handed down by the Federal Court and of Cassation of Venezuela on March 18, 1908, furnish of and in themselves conclusive proof against the rights and the pretensions of the claimant company, since said company, even though it be accepted as the assignee of the others, has not established itself in accordance with the laws of Venezuela, and even though it had so established itself, it was beforehand subjected to Venezuelan laws and it was agreed that these should govern and decide the contentions and differences that might arise; whereas the United States of America, on behalf of the claimant company, has declined and declines in any manner to admit that said decision of Umpire Barge or that of the Federal Court and of Cassation of Venezuela could terminate or has terminated or extinguished the rights and claims asserted by the claimant company under said Fitzgerald contract, but that on the contrary the rights and claims asserted in connection therewith by the claimant company are valid and subsisting.

In view of these and other equally conflicting conclusions reached and persistently maintained by their respective governments with regard to this case, the representatives herein named, animated by a firm resolve to do all in their power to maintain and increase a good understanding between their governments, and by a fixed desire to provide for the adjustment of the differences existing between them in this case, in justice and equity, can not escape the conclusion that the same cordial spirit which has prevailed in their many conferences already held counsels and points to the expediency and necessity of submitting this case to an impartial international tribunal in order that the differences arising therefrom may be once and for all determined and concluded in a just and equitable manner. To reach this desirable end, and in accordance with the principles set out:

It is agreed between William I. Buchanan, High Commissioner, representing the President of the United States of America, and Doctor Francisco González Guinán, Minister for Foreign Affairs of the

United States of Venezuela, duly authorized to this end by their respective governments, that the matter of the United States of America, on behalf of the Orinoco Corporation and of its predecessors in interest, The Manoa Company Limited, The Orinoco Company and The Orinoco Company Limited, shall be submitted to the arbitral tribunal created by this Protocol.

Said arbitral tribunal shall examine and decide:

1. Whether the decision of Umpire Barge of April 12, 1904, under the principles of international law is not void and whether it preserves a conclusive character, in the case of the predecessors in interest of the claimant company against Venezuela;

2. If the arbitral tribunal decides that said decision shall be considered conclusive, it shall then decide what effect said decision had with respect to the subsistence of the Fitzgerald contract, at that date, and with respect to the rights of the claimant company or those of its predecessors in interest in said contract;

3. If it decides that the decision of said Umpire Barge shall not be considered conclusive, said arbitral tribunal shall examine on their merits and shall decide the matters submitted to said Umpire by the predecessors in interest of the claimant company;

4. The arbitral tribunal shall examine, consider and decide whether there has been manifest injustice done the claimant company or its predecessors in interest regarding the Fitzgerald contract through the decision of the Federal Court and of Cassation, rendered March 18, 1908, in the suit maintained by the Government of Venezuela against the predecessors in interest of the claimant company, or through any of the acts of any of the authorities of the Government of Venezuela.

If the arbitral tribunal decides that such injustice has been done, it is empowered to examine the matter of the claimant company and of its predecessors in interest against the Government of Venezuela on its merits, and to render a final decision with respect to the rights and the obligations of the parties, fixing such damages as in its elevated judgment it believes to be just and equitable.

In every event the arbitral tribunal shall decide:

(a) What effect, if any, said decision of the Federal Court and of Cassation produced and has upon everything relating to the rights of the claimant company as assignee of the Fitzgerald contract;

(b) Whether said Fitzgerald contract is in force; and,

(c) If it determines that said contract is in force, then, what are the

rights and the obligations of the claimant company on the one hand, and of the Government of Venezuela on the other.

ARTICLE III

William I. Buchanan, High Commissioner, representing the President of the United States of America, and Doctor Francisco González Guinán, Minister for Foreign Affairs of the United States of Venezuela, have carefully considered in the conferences they have held, the matter of the United States of America on behalf of the United States and Venezuela Company against the United States of Venezuela, also known as the Crichfield case, and have found that while the questions involved therein differ in several aspects from those in the other claims they have considered, the same radically different views held by their respective governments in those cases exist in the case under consideration.

To the end therefore, that nothing shall be left pending that will not tend to add to the good understanding and friendship existing between the two governments, their Representatives above-named, William I. Buchanan and Doctor Francisco González Guinán hereby agree that the matter of the United States of America on behalf of the United States and Venezuela Company against the United States of Venezuela shall be submitted to the arbitral tribunal created by this protocol, and they further agree that said tribunal is empowered to examine, consider, hear, determine and make its award in said case on its merits in justice and equity.

ARTICLE IV

The United States of America and the United States of Venezuela having, at the Second Peace Conference held at The Hague in 1907, accepted and recognized the Permanent Court of The Hague, it is agreed that the cases mentioned in Articles I, II, and III of this protocol, that is to say, the case of the Orinoco Steamship Company, that of the Orinoco Corporation and of its predecessors in interest and that of the United States and Venezuela Company, shall be submitted to the jurisdiction of an arbitral tribunal composed of three arbitrators chosen from the above-mentioned Permanent Court of The Hague.

No member of said Court who is a citizen of the United States of America or the United States of Venezuela shall form part of said arbitral tribunal, and no member of said Court can appear as counsel for either nation before said tribunal.

This arbitral tribunal shall sit at The Hague.

ARTICLE V

The said arbitral tribunal shall, in each case submitted to it, determine, decide and make its award, in accordance with justice and equity. Its decisions in each case shall be accepted and upheld by the United States of America and the United States of Venezuela as final and conclusive.

ARTICLE VI

In the presentation of the cases to the arbitral tribunal both parties may use the French, English or Spanish language.

ARTICLE VII

Within eight months from the date of this protocol, each of the parties shall present to the other and to each of the members of the arbitral tribunal, two printed copies of its case, with the documents and evidence on which it relies, together with the testimony of its respective witnesses.

Within an additional term of four months, either of the parties may in like manner present a counter case with documents and additional evidence and depositions, in answer to the case, documents, evidence and depositions of the other party.

Within sixty days from the expiration of the time designated for the filing of the counter cases, each government may, through its representative, make its arguments before the arbitral tribunal, either orally or in writing, and each shall deliver to the other copies of any arguments thus made in writing, and each party shall have a right to reply in writing, provided such reply be submitted within the sixty days last named.

ARTICLE VIII

All public records and documents under the control or at the disposal of either government or in its possession, relating to the matters in litigation shall be accessible to the other, and, upon request, certified copies of them shall be furnished. The documents which each party produces in evidence shall be authenticated by the respective Minister for Foreign Affairs.

ARTICLE IX

All pecuniary awards that the arbitral tribunal may make in said cases shall be in gold coin of the United States of America, or in its equivalent in Venezuelan money, and the arbitral tribunal shall fix the time of payment, after consultation with the representatives of the two countries.

ARTICLE X

It is agreed that within six months from the date of this protocol, the Government of the United States of America and that of the United States of Venezuela shall communicate to each other, and to the Bureau of the Permanent Court at The Hague, the names of the arbitrators they select from among the members of the Permanent Court of Arbitration.

Within sixty days thereafter the arbitrators shall meet at The Hague and proceed to the choice of the third arbitrator in accordance with the provisions of Article XLV of the Hague Convention for the peaceful settlement of international disputes referred to above.

Within the same time each of the two governments shall deposit with the said Bureau the sum of fifteen thousand francs as security of the expenses of the arbitrations provided for herein, and from that time thereafter they shall in like manner deposit such further sums as may be necessary to defray said expenses.

The arbitral tribunal shall meet at The Hague within ninety days from the date of this protocol to begin its deliberations and on that day arguments shall be heard. Within sixty days after the hearings are closed its decisions shall be rendered.

ARTICLE XI

Except as provided in this protocol the arbitral tribunal shall conform to the provisions of the Convention for the peaceful settlement of international disputes signed at The Hague on October 18, 1907, in which both parties are signatory, and especially to the provisions of Chapter III thereof.

ARTICLE XII

It is hereby understood and agreed that nothing herein contained shall preclude the United States of Venezuela, during the period of six months from the date of this Protocol, from reaching an amicable settlement with either or both of the claimants mentioned in Articles II and III herein, provided that in such case, should a settlement may be reached, the respective concerns shall not have retained the consent of the Government of the United States of America.

The undersigned, William L. Buchanan and Francisco Contreras Calzadilla, in the capacity which each holds, thus certify their concurrence with respect to the differences between the United States of America and the United States of Venezuela as stated, and sign the

copies of this protocol of the same tenor and to one effect, in both the English and Spanish languages, at Carácas, in the thirteenth day of February one thousand nine hundred and nine.

[Here follow signatures.]

[*Minister Russell to the Minister for Foreign Affairs*]

September 13, 1909.

MR. MINISTER:

Referring to a conversation on the subject, I have the honor to inform Your Excellency that the Department of State of the United States of America assents to Venezuela's suggestion to modify Article X of the Protocol signed February 13, 1909, by fixing October 15 as the date on or before which the Arbitrators must be named, and providing for a meeting at The Hague of the Arbitrators so chosen, between January 5 and 15, 1910, to select a third; always provided that Venezuela will also agree to modify Article VII of the above-mentioned Protocol by fixing January 1, 1910, as the date for the presentation of the case, and April 30, 1910, as the date for the presentation of the counter case; and to modify Article X by fixing May 15, 1910, as the date for the meeting of the Arbitral Tribunal.

I am instructed to inform Your Excellency that the Protocol of February 13, 1909, is approved by the Government of the United States of America, and is in effect in the United States, and that the President of the United States of America transmitted said Protocol to the Senate for its information, in a message dated April 20, 1909.

I take this occasion to renew to Your Excellency the assurance of my highest and most distinguished consideration.

WILLIAM W. RUSSELL.

To His Excellency

GENERAL JUAN PIETRI,

Minister for Foreign Affairs.

[*The Minister for Foreign Affairs to Minister Russell*]

[Translation.]

UNITED STATES OF VENEZUELA.

MINISTRY OF FOREIGN AFFAIRS.

D. P. E. No. 1464—Carácas: *September 14, 1909.*

MR. MINISTER:

I have the honor to acknowledge the receipt of Your Excellency's note of yesterday's date, in regard to fixing certain extensions and

dates in connection with the Protocol of February 13th last, between the United States of Venezuela and the United States of America.

In reply I am pleased to inform Your Excellency that the Government of Venezuela assents to the 15th of next October as the date on or before which appointment must be made of the arbitrators referred to in Article X of the above-mentioned Protocol. The Government of Venezuela also agrees that the first meeting of the arbitrators to select a third shall take place between the 5th and 15th of January, 1910; that January 1, 1910, shall be the date for the presentation of the cases of the two governments; that April 30, 1910, shall be the date for the presentation of the counter case and May 15, 1910, the date for the meeting of the Arbitral Tribunal.

Note has been taken of the fact that the Protocol of February 13, 1909, has been approved by the Government of the United States, and is in effect in said Nation, whose President transmitted it to the Senate for its information in a message dated April 20 last.

I take this occasion etc., etc., etc.

J. PIETRI.

To His Excellency
W. W. RUSSELL,
etc., etc., etc.

No. 209

PARAGUAY—UNITED STATES

*General arbitration convention for the settlement of disputes before the Hague Court of Arbitration.—Signed at Asunción, March 13, 1909*¹

The Government of the United States of America and the Government of the Republic of Paraguay, signatories of the convention for the pacific settlement of international disputes, concluded at The Hague on the twenty-ninth July, 1899;

Taking into consideration that by Article XIX of that convention the high contracting parties have reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment;

Have authorized the undersigned to conclude the following convention:

¹ English and Spanish: *United States Statutes at Large*, vol. 36, p. 2190. Ratifications exchanged at Asunción, October 2, 1909.

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at The Hague by the Convention of the twenty-ninth July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honor of the two contracting states, and do not concern the interests of third parties.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that on the part of the United States such special agreements will be made by the President of the United States, by and with the advice and consent of the Senate thereof, and on the part of Paraguay shall be subject to the procedure required by her laws.

ARTICLE III

The present convention is concluded for a period of five years dating from the day of the exchange of the ratifications.

ARTICLE IV

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by the President of Paraguay, with the previous approval of the Legislative Congress. The ratifications shall be exchanged at Asunción as soon as possible, and the convention shall take effect on the date of the exchange of its ratifications.

Done in duplicate in the English and Spanish languages at Asunción, this thirteenth day of March in the year one thousand nine hundred and nine.

[Here follow signatures.]

No. 210

BRAZIL—MEXICO

*General arbitration convention for settling disputes before the Hague Arbitration Court.—Signed at Petropolis, April 11, 1909*¹

The President of the United States of Mexico and the President of the Republic of the United States of Brazil, being desirous of concluding a convention of arbitration in conformity with the principles laid down in Articles XV to XIX and XXI of the convention for the pacific settlement of international disputes signed at The Hague on the twenty-ninth of July, 1899, and in Articles XXXVII to XL and XLII of the convention which, for the same purpose, was also signed at The Hague on the eighteenth October, 1907, have named as their plenipotentiaries, to wit:

The President of the United States of Mexico: Señor Manuel Julian de Lizardi, his Envoy Extraordinary and Minister Plenipotentiary to the Government of Brazil; and

The President of the United States of Brazil; Senhor José Maria da Silva Paranhos do Rio Branco, Minister for Foreign Affairs, who, duly authorized, have agreed on the following Articles:

ARTICLE I

The differences which may arise between the two high contracting parties on questions of a juridical character, or relating to the interpretation of treaties in force, either existing or which may hereafter exist between the two parties, and which differences it may not have been possible to arrange through diplomatic channels, shall be submitted to the Permanent Court of Arbitration established at The Hague in virtue of the convention of the twenty-ninth of July, 1899, always provided that the aforesaid questions do not affect the vital interests, the independence, or the honor of the contracting states, and that they do not involve the interests of another state, it being further understood that, if one of the two parties should so prefer, the matter for arbitration arising out of the questions referred to in the present convention, shall be submitted for decision to the head of a state or a friendly government, or to one or more arbitrators, without limitation to those who are included in the lists of the aforesaid Permanent Court of The Hague.

¹ English: *British and Foreign State Papers*, vol. cii, p. 187.

Portuguese and Spanish: de Martens, *Nouveau recueil général*, 3d series, vol. vi, p. 347.

Ratifications exchanged at Mexico, December 26, 1911.

ARTICLE II

In each particular case, before appealing to any special arbitrator, to the Permanent Court of The Hague, or to other arbitrators, the two high contracting parties shall sign a special agreement which shall clearly determine the question at issue, the extent of the powers of the arbitrator or arbitrators, and the conditions to be observed with regard to the periods allowed for the formation of the court, the election of the arbitrator or arbitrators, and the procedure to be followed.

It is understood that the aforesaid special agreement shall be submitted in the two countries to the formalities required by their constitutional laws.

ARTICLE III

The present convention is concluded for a period of five years, counting from the date of the exchange of ratifications. If it should not be denounced six months prior to the termination of this period, it shall remain in force for a further period of five years, and so on successively.

ARTICLE IV

After fulfilment of the formalities required by the constitutional laws of each of the two countries, the present convention shall be ratified and the ratifications shall be exchanged in the city of Mexico as soon as may be possible.

In faith whereof we, the above-appointed plenipotentiaries, sign the present instrument in duplicate, in the Spanish and Portuguese languages, sealing each copy with our seals, in Petropolis, this eleventh day of the month of April, one thousand nine hundred and nine.
[Here follow signatures.]

No. 211

COLOMBIA—PERU

*Protocol of an agreement for arbitrating disputes growing out of occurrences in the Putumayo Region.—Signed at Lima, April 21, 1909*¹

The Government of the Republic of Peru and that of the Republic of Colombia, desirous of putting an end in a friendly manner to the

¹ English: *British and Foreign State Papers*, vol. CII, p. 400.

Spanish: de Martens, *Nouveau recueil général*, 3d series, vol. VI, p. 16.

See supplementary agreement of April 13, 1910, No. 223, *post*, p. 457.

The instrument makes no provision for ratifications or the exchange thereof.

disagreements that have arisen between them and of avoiding in the future every possibility of conflict in the region of the frontier, have decided, in order to establish their relations at the same time on a footing of perfect understanding and harmony, to conclude an agreement that shall faithfully interpret those aims, wherefore, they have duly authorized their plenipotentiaries as follows:

The President of the Republic of Peru: Dr. Melitón F. Porras, Minister of Foreign Affairs; and

The President of the Republic of Colombia: Señor Luis Tanco Argaez, Envoy Extraordinary and Minister Plenipotentiary of that republic to Peru;

Who have agreed as follows:

ARTICLE I

The Governments of Peru and Colombia express their feelings of deep regret for the occurrences that took place in the Putumayo Region last year and agree as a sign of mutual amends to appoint by means of a special convention, to be signed within the term of three months reckoned from the date on which the present agreement shall come into effect an international commission to inquire into and elucidate the events that took place in that region and to embody the result of their investigations in a report.

If after the presentation of the report the two governments are unable to come to an agreement with regard to the responsibilities resulting from those occurrences, the matter shall be submitted for decision by arbitration. As soon as the responsibility shall have been determined, the parties found guilty shall receive the proper punishment prescribed by law, after the proper legal proceedings have been duly observed. Fair compensation shall also be given to those who have sustained material losses, as well as to the families of those who were the victims of acts found to merit punishment.

ARTICLE II

The Governments of Peru and Colombia agree to renew their negotiations for the demarcation of their boundary lines immediately after the declaration of the arbitral award in the suit that is being prosecuted at Madrid in accordance with the treaty concluded between Peru and Ecuador in 1887, and agree to have recourse to arbitration in the event of their inability to arrive at a direct settlement of their differences.

ARTICLE III

If three months shall elapse after this agreement comes into effect and His Majesty the King of Spain shall not have issued the award in the Peru-Ecuadorian Arbitration, the two governments bind themselves to conclude a *modus vivendi* arrangement with reference to the territories under dispute in a form that will prevent the possibility of contentions in those regions and the clashing of interests of citizens of either country.

ARTICLE IV

With the object of fostering commerce between Peru and Colombia both in the eastern regions and on the Pacific coast, the two governments agree to conclude a treaty of navigation and commerce on the basis of mutual advantage.

In witness whereof they have signed the present agreement, in duplicate, and have affixed thereto their respective seals at Lima, this twenty-first day of the month of April, one thousand nine hundred and nine.

[Here follow signatures.]

No. 212

BRAZIL—HONDURAS

*General arbitration convention for settling disputes before the Hague Court of Arbitration.—Signed at Guatemala, April 26, 1909*¹

The President of the United States of Brazil and the President of the Republic of Honduras, being desirous of concluding an arbitration convention in accordance with the principles enunciated in Articles XV to XIX and XXI of the convention for the pacific settlement of international disputes signed at The Hague on the twenty-ninth July, 1899, and in Articles XXXVII to XL and XLII of the convention signed at The Hague on the eighteenth October, 1907, have named for that purpose the following plenipotentiaries, that is to say:

The President of the United States of Brazil: Senhor A. da Fontoura Xavier, Minister Resident in the Republic of Honduras; and

The President of the Republic of Honduras: Señor Dr. Don Manuel J. Barahona, Chargé d'Affaires in the Republic of Guatemala;

¹ English: *British and Foreign State Papers*, vol. cv, p. 937.

Portuguese: de Martens, *Nouveau recueil général*, 3d series, vol. viii, p. 700.

Ratifications exchanged at Guatemala, April 24, 1914.

Who, having communicated to each other their respective full powers, found in good and proper form, have agreed upon the following articles:

ARTICLE I

Differences of a legal character, or relative to the interpretation of treaties existing between the two high contracting parties, which may arise between them, and which it has not been possible to settle by diplomatic means, shall be submitted to the Permanent Court of Arbitration at The Hague, provided that they do not affect the vital interests, the independence, or the honor of the two high contracting parties, nor touch the interests of third parties; it is, moreover, understood that in case one of the two high contracting parties should deem it preferable, any arbitration treated of in this convention shall take place before the head of a friendly state or before selected arbitrators, whose choice shall not be limited to the list of the members of the aforesaid Permanent Court of Arbitration of The Hague.

ARTICLE II

In each particular case, the two high contracting parties before appealing to the Permanent Court of Arbitration of The Hague, or to other arbitrators, or to a sole umpire, shall sign a special *compromis* defining clearly the question at issue, the extent of the powers of the arbitrators or umpire, the dates to be fixed for the formation of the tribunal, or the selection of the arbitrators or umpire, and the different stages of the arbitration proceedings. It is understood that such special *compromis* can be ratified by the President of the United States of Brazil only with the approval of the two Chambers of the Federal Congress, and by the President of the Republic of Honduras with the approval of the National Legislative Congress.

ARTICLE III

The present convention will remain in force for a period of five years from the date of the exchange of the ratifications and unless it shall have been denounced six months before the expiration of the period herein stated, it shall remain in force for a further period of five years, and so on in succession.

ARTICLE IV

The present convention shall be ratified by the President of the United States of Brazil with the authorization of the Federal Congress, and by the President of the Republic of Honduras with the

authorization of the National Legislative Congress. The ratifications shall be exchanged in the city of Guatemala as soon as possible, and the convention will come into force upon the exchange of the ratifications.

In witness whereof we, the plenipotentiaries above named, have signed the present instrument in duplicate, in the Portuguese and Spanish languages, and have affixed our seals thereto.

Done at Guatemala City, this twenty-sixth day of April, one thousand nine hundred and nine.

[Here follow signatures.]

No. 213

BRAZIL—VENEZUELA

*General arbitration convention for the settlement of disputes by reference to the Hague Court of Arbitration.—Signed at Carácas, April 30, 1909*¹

The Acting President of the United States of Venezuela and the President of the United States of Brazil, desirous to conclude an arbitral convention in accordance with the principles enunciated in Articles XV to XIX and in Article XXI of the convention for the peaceful settlement of international disputes, signed at The Hague the twenty-ninth day of July, 1899, have duly authorized the undersigned:

Dr. Francisco González Guinán, Minister of Foreign Relations of the United States of Venezuela, and

Don Luiz R. de Lorena Ferreira, Envoy Extraordinary and Minister Plenipotentiary of the United States of Brazil to the United States of Venezuela;

Who have agreed upon the following articles:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the high contracting parties, and which it may not have been possible to settle by diplomacy, shall be submitted to the Permanent Court of Arbitration at The Hague;

¹ English: *American Journal of International Law*, Supplement, vol. VI, p. 290.

Portuguese: *Collecção das Leis da Republica dos Estados Unidos do Brazil de 1912*, vol. I, pt. II, p. 300.

Spanish: de Martens, *Nouveau recueil général*, 3d series, vol. VI, p. 20.

Ratifications exchanged at Carácas, January 8, 1912.

provided, that they do not affect the vital interests, the independence or the honor of the high contracting parties, and do not prejudice the interests of third parties.

It is also understood that if one of the two high contracting parties should prefer to do so, any arbitration provided for in this convention shall be before the chief executive of a friendly state or before arbitrators chosen without restriction to the list of the above named Permanent Court of Arbitration at The Hague.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration of The Hague, or to other arbitrators or to a sole arbitrator, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrator or arbitrators, and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that such special agreements shall be entered into by the presidents of the respective states and shall be subjected to the formalities which the respective constitutional laws of the two countries require for such purposes.

ARTICLE III

The present convention shall remain in force for the period of five years from the date of the exchange of the ratifications thereof and if not denounced six months before the expiration of the above named period it shall continue in force for one additional year, and so on successively.

ARTICLE IV

The present convention shall be ratified by the President of the United States of Venezuela in accordance with the constitution and laws of this state, and by the President of the United States of Brazil with the consent of the Federal Congress thereof. The ratifications shall be exchanged in the city of Carácas as soon as possible and the convention shall become effective immediately upon the exchange of said ratifications.

In witness whereof, we, the undersigned, sign the present treaty in duplicate, in Spanish and Portuguese, and affix thereto our seals.

Done in the City of Carácas on the thirtieth day of April, one thousand nine hundred and nine.

[Here follow signatures.]

CARÁCAS, *April 30, 1909.*

SIR:

With reference to the convention of arbitration signed this day, it is of course understood between us that Article I excludes from obligatory arbitration questions which, according to territorial law, must be settled by the national tribunals.

Even though this declaration appears unnecessary, it is convenient to state it here in writing and to mention it later on in the act of the exchange of the ratifications of the convention referred to in order to avoid any doubt in future.

I hope that Your Excellency will be pleased to acknowledge receipt of this note and to signify your concurrence with the above.

I am pleased to take advantage of this opportunity to renew to Your Excellency the assurance of my highest consideration.

F. GONZÁLEZ GUINÁN.

His Excellency

Don Luiz R. de Lorena Ferreira, E. E. and M. P. of U. S. of Brazil.

BRAZILIAN LEGATION, CARÁCAS,
April 30, 1909.

SIR:

I have the honor to acknowledge receipt of Your Excellency's note dated today, and, in reply to it, to inform Your Excellency that the reservations made in Article I of the Convention which we signed today, certainly exclude from obligatory arbitration questions which according to the territorial law must be decided by the national tribunals.

I agree with Your Excellency in the convenience of putting this declaration in writing and also to mention it later in the act of exchange of the ratifications of the convention referred to, in order to avoid any doubt in the future.

I avail myself of this opportunity to repeat to Your Excellency the declaration of my high consideration.

LUÍZ R. DE LORENA FERREIRA.

His Excellency

Dr. F. González Guinán, M. of F. A. of U. S. Venezuela.

No. 214

BRAZIL—ECUADOR

*General arbitration convention for the settlement of disputes before the Hague Court of Arbitration.—Signed at Washington, May 13, 1909*¹

The President of the Republic of Ecuador and the President of the United States of Brazil, desiring to conclude an arbitration convention in accordance with the principles enunciated in Articles XV to XIX and Article XXI of the convention for the pacific settlement of international disputes, signed at The Hague, July 29, 1899, and in Articles XXXVII to XL and Article XLII of the convention signed in the same city of The Hague October 18, 1907, have to this end named the following plenipotentiaries, to wit:

The President of the Republic of Ecuador, His Excellency Sr. Don Luis Felipe Carbo, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Ecuador to the Government of the United States of America, Member of the Permanent Court of Arbitration at The Hague;

The President of the United States of Brazil, His Excellency Sr. Joaquim Nabuco, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil to the Government of the United States of America, Member of the Permanent Court of Arbitration at The Hague;

Who, after having communicated their respective powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two high contracting parties and which it may not have been possible to settle by diplomacy, shall be submitted to the Permanent Court of Arbitration at The Hague, provided they do not affect the vital interests, independence or honor of the two high contracting parties and do not concern the interests of third parties, and it is understood moreover that, in case one of the two high contracting parties should judge it preferable, any arbitration of which this convention treats, shall be referred to the

¹ Portuguese and Spanish: de Martens, *Nouveau recueil générale*, 3d series, vol. VI, p. 352. Ratifications exchanged at Quito, February 12, 1912.

chief of a friendly state or to arbitrators chosen without regard to the personnel of the said Permanent Court of Arbitration at The Hague.

ARTICLE II

In each individual case, the high contracting parties, before appealing to the Permanent Court of Arbitration at The Hague or to other arbitrators or arbitrator, shall sign a special agreement determining clearly the matter in dispute, the extent of the powers of the arbitrator or arbitrators, the periods to be fixed for the formation of the tribunal or election of the arbitrator or arbitrators, and the various stages of the arbitral procedure. It is understood that this special agreement shall be submitted in the two countries to the formalities demanded by the constitutional laws of each.

ARTICLE III

The present convention shall remain in force for a period of five years, counting from the day of the exchange of ratifications, and, unless denounced six months before the termination of the period, shall be renewed for another period of five years, and so on successively.

ARTICLE IV

The present convention shall be ratified by the President of the Republic of Ecuador with the authorization of the National Congress of Ecuador and by the President of the United States of Brazil with the authorization of the Federal Congress. The ratifications shall be exchanged in the city of Washington as soon as possible and the convention shall come into force upon the exchange of the ratifications.

In faith whereof, we, the plenipotentiaries above named, have signed and sealed the present instrument in duplicate, in the Spanish and Portuguese languages.

Done in the City of Washington, May thirteenth, one thousand nine hundred and nine.

[Here follow signatures.]

No. 215

BRAZIL—COSTA RICA

*General arbitration convention for submitting disputes to the Hague Court of Arbitration.—Signed at Washington, May 18, 1909*¹

The President of the Republic of Costa Rica and the President of the United States of Brazil, desiring to conclude an arbitration convention in accordance with the principles enunciated in Articles XV to XIX and Article XXI of the convention for the pacific settlement of international disputes, signed at The Hague, July 29, 1899, and in Articles XXXVII to XL and Article XLII of the convention signed in the same city of The Hague, October 18, 1907, have to this end named the following plenipotentiaries, to wit:

The President of the Republic of Costa Rica, His Excellency Sr. Don Joaquín Bernardo Calvo, Envoy Extraordinary and Minister Plenipotentiary of Cost Rica to the Government of the United States of America;

The President of the United States of Brazil, His Excellency Sr. Joaquim Nabuco, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil to the Government of the United States of America, member of the Permanent Court of Arbitration at The Hague;

Who, after having communicated their respective powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the two high contracting parties and which it may not have been possible to settle by diplomacy, shall be submitted to the Permanent Court of Arbitration at The Hague, provided they do not affect the vital interests, independence, or honor of the two high contracting parties and do not concern the interests of third parties, and it is understood moreover that, in case one of the two high contracting parties should judge it preferable, any arbitration of which this convention treats, shall be referred to the chief of a friendly state or arbitrators chosen without regard to the personnel of the said Permanent Court of Arbitration at The Hague.

¹ Portuguese and Spanish: Brazil, *Diario Oficial*, March 7, 1912.

Ratifications exchanged at Washington, August 10, 1911. Cardoso de Oliveira, *Actos Diplomáticos*, vol. II, p. 369.

ARTICLE II

In each individual case, the high contracting parties, before appealing to the Permanent Court of Arbitration at The Hague, or to other arbitrators or arbitrator, shall sign a special agreement determining clearly the matter in dispute, the extent of the powers of the arbitrator or arbitrators, the periods to be fixed for the formation of the tribunal or election of the arbitrator or arbitrators and the various stages of the arbitral procedure. It is understood that this special agreement shall be submitted in the two countries to the formalities demanded by the constitutional laws of each.

ARTICLE III

The present convention shall remain in force for a period of five years, counting from the day of the exchange of ratifications, and, unless denounced six months before the termination of the period here established, shall be renewed for another period of five years, and so on successively.

ARTICLE IV

The present convention shall be ratified by the President of the Republic of Costa Rica and by the President of the United States of Brazil, with the authorization of the National Congress of the respective countries. The ratifications shall be exchanged in the city of Washington as soon as may be possible and the convention shall come into force upon exchange of the ratifications.

In faith whereof, we, the plenipotentiaries above named, have signed and sealed the present instrument in duplicate, in the Spanish and Portuguese languages.

Done in the city of Washington, May eighteenth, one thousand nine hundred and nine.

[Here follow signatures.]

No. 216

BRAZIL—CUBA

*General arbitration convention for the settlement of disputes before the Hague Court of Arbitration.—Signed at Washington, June 10, 1909*¹

The President of the Republic of Cuba and the President of the United States of Brazil, desiring to conclude an arbitral convention in

¹ English: *American Journal of International Law*, Supplement, vol. VII, p. 167.

Portuguese and Spanish: de Martens, *Nouveau recueil général*, 3d series, vol. V, p. 13.

Ratifications exchanged at Havana, August 2, 1911.

accordance with the principles enunciated in Articles XV to XIX and in Article XXI of the convention for the peaceful settlement of international disputes, signed at The Hague on the twenty-ninth day of July, 1899, and in Articles XXXVII to XL and in Article XLII of the convention signed in the same city of The Hague on the eighteenth day of October, 1907, have for this purpose appointed their plenipotentiaries, to wit:

The President of the Republic of Cuba, His Excellency Sr. Carlos García Vélaz, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Cuba to the Government of the United States of America; and

The President of the United States of Brazil, His Excellency Sr. Joaquim Nabuco, Ambassador Extraordinary and Plenipotentiary of the United States of Brazil to the Government of the United States of America, Member of the Permanent Court of Arbitration at The Hague;

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

Differences which may arise of a legal nature, or relating to the interpretation of treaties existing between the high contracting parties, and which it may not have been possible to settle by diplomacy, shall be submitted to the Permanent Court of Arbitration at The Hague; provided, that they do not affect the vital interests, the independence or the honor of the high contracting parties and do not concern the interests of third parties; it being likewise understood that, in case one of the two high contracting parties should choose to do so, any arbitration provided for in this convention may be submitted to the chief executive of a friendly state, or to arbitrators chosen without restriction to the list of the above named Permanent Court of Arbitration at The Hague.

ARTICLE II

In each individual case the high contracting parties, before appealing to the Permanent Court of Arbitration at The Hague, or to other arbitrator or arbitrators, shall conclude a special agreement defining clearly the matter in dispute, the scope of the powers of the arbitrator or arbitrators and the periods to be fixed for the formation of the arbitral tribunal and the several stages of the procedure. It is understood that such special agreement shall be entered into on behalf

of the Republic of Cuba, by the President of the Republic of Cuba with the approval of the Senate thereof, and on behalf of the Republic of Brazil, by the President of the United States of Brazil with the approval of the two Houses of the Federal Congress thereof.

ARTICLE III

The present convention shall remain in force for a period of five years from the date of the exchange of the ratifications thereof, and, if not denounced six months before the expiration of the above-named period, it shall remain in force for an equal period of five years, and so on in the future.

ARTICLE IV

The present convention shall be ratified by the President of the Republic of Cuba with the approval of the Senate thereof, and by the President of the United States of Brazil with the authorization of the Federal Congress thereof. The ratifications shall be exchanged in the city of Washington as soon as possible, and the convention shall become effective immediately upon the exchange of ratifications.

In witness whereof, we, the above named plenipotentiaries, have signed the present instrument in duplicate, in the Spanish and Portuguese languages, and have affixed thereto our seals.

Done in the city of Washington on the tenth day of June, one thousand nine hundred and nine.

[Here follow signatures.]

No. 217

BOLIVIA—BRAZIL

*General arbitration treaty.—Signed at Petropolis, June 25, 1909*¹

The Government of the Republic of Bolivia and the Government of the Republic of the United States of Brazil, desiring to establish on permanent bases the relations of ancient friendship and good neighborliness, which happily exist between the two countries, have resolved to conclude a general arbitration treaty, and, to that end, have named their plenipotentiaries, to wit:

¹ Portuguese: *Relatorio do Ministro das Relações Exteriores*, 1914, vol. II, Anexo C, p. 17.
Spanish: *Traitées Généraux d'Arbitrage Communiqués au . . . Cour Permanente d'Arbitrage*, 1911, p. 353.

Ratifications exchanged at La Paz, May 10, 1912.

The Government of the Republic of Bolivia, Señor Claudio Pinilla, Envoy Extraordinary and Minister Plenipotentiary to Brazil; and

The Government of the United States of Brazil, Señor José Maria da Silva Paranhos do Rio Branco, Minister of State for Foreign Affairs of the same republic.

Who, duly authorized, have agreed upon the following articles:

ARTICLE I

The high contracting parties pledge themselves to submit to arbitration the controversies that may arise between them and that it may not have been possible to settle through direct negotiations or through any of the other means for the amicable settlement of international disputes, provided that the said differences do not relate to questions that may affect the vital interests, the territorial integrity, the independence or the sovereignty and the honor of one of the states.

ARTICLE II

Those disputes which may have been the object of definite agreements between the parties and have been settled in accordance with the said agreements may not by virtue of this treaty be reopened, and only such disputes as concern the interpretation or the execution of the said agreements can be submitted to arbitration.

ARTICLE III

In each case that arises, the high contracting parties shall sign a special agreement.

It is understood that the said special agreements shall, in each of the republics, be ratified by the President, having previously been approved by the National Congress.

ARTICLE IV

The matters in dispute shall be stated with due clearness by the high contracting parties, which shall also fix the scope of the powers of the arbitrator or arbitrators, and the formalities of the procedure.

ARTICLE V

In the absence of a special provision to that end between the parties, it shall devolve upon the arbitrator or arbitrators to designate the time and the place for the sessions, to determine the language that is to be used, to define the method of inquiry, the formalities and limita-

tions of time to which the parties are subject, the proceeding to be followed, and in general to take all necessary measures to exercise their duties and to settle all the difficulties that may arise in the course of the discussion.

The two governments pledge themselves to place at the disposal of the arbitrator or arbitrators all the sources of information they may have at their command.

ARTICLE VI

The name or names of the arbitrator or arbitrators shall be recorded in the special agreement or separate instrument, after the acceptance of the mission has been announced.

ARTICLE VII

When it shall be decided that the dispute is to be submitted to an arbitral tribunal, each of the high contracting parties shall propose an arbitrator whose nomination shall become definitive only with the consent of the other and the two arbitrators thus appointed shall come to an agreement as to the selection of a third arbitrator who, of right, shall be the president of the tribunal. In case of disagreement regarding the selection of the third arbitrator, the two governments shall request the President of the Swiss Confederation to appoint the president of the tribunal.

ARTICLE VIII

Each of the parties shall have power to appoint one or several representatives to defend its case before the arbitrator or the arbitral tribunal.

ARTICLE IX

The arbitrator or the arbitral tribunal is competent to decide upon the validity of the agreement and the interpretation of the same. In consequence, the arbitrator or the arbitral tribunal is also competent to settle the controversies between the contracting parties as to whether certain disputes that may arise constitute matters subject to arbitral jurisdiction according to the terms of the agreement.

The arbitral tribunal is competent to decide in regard to the regularity of its own organization.

ARTICLE X

The arbitrator or arbitral tribunal shall decide according to the principles of international law, according to the special regulations

that the two contracting parties may have established, or *ex aequo et bono* in accordance with the powers that may have been conferred by the same agreement.

ARTICLE XI

The resolutions of the tribunal shall be taken in the presence of the three arbitrators by a unanimous or by a majority vote.

The concordant vote of the two arbitrators first elected shall settle the dispute or the disputes submitted to the tribunal. If there is disagreement between the two, the president or third arbitrator, shall adopt one of the votes, or shall give his own vote which shall be decisive.

If one of the arbitrators is absent, the session shall be suspended until he shall be able to appear in case his absence has been for just cause. If, nevertheless, after having been duly summoned, he who has been absent without just reason should not wish to take part in the deliberations, or in other acts of the procedure, the tribunal may function with the two arbitrators present, entering on the record the voluntary and unjustified absence of the other.

ARTICLE XII

The award shall definitively settle all the points in controversy, and shall be drafted in two copies signed by the sole arbitrator, or by the three members of the arbitral tribunal. If any one of the latter should refuse to sign the decision, the other two shall make a record of the fact in a special document signed by them.

The decisions shall or shall not be accompanied by an opinion, according to the provisions of each special agreement.

ARTICLE XIII

The arbitrator or the arbitral tribunal shall announce the decision to the representative of each of the two parties.

ARTICLE XIV

Within the limits of its scope, the award legally rendered shall decide the controversy between the parties, and shall specify the period within which it must be carried out.

ARTICLE XV

Each of the contracting states pledges itself to observe and to fulfil faithfully the arbitral decision.

ARTICLE XVI

The disputes that may arise in regard to the execution of the decision shall be settled by arbitration, and, whenever possible, by the same arbitrator who may have pronounced it.

ARTICLE XVII

If, before the complete execution of the sentence, either of the two interested parties should have knowledge of the falsity or spuriousness of any document that may have served as basis for the award or should establish that the sentence in whole or in part, was based on an error of fact, such party may then take steps to have the decision reviewed before the same arbitrator or tribunal.

ARTICLE XVIII

Each of the parties shall bear the expenses incurred for its own representation and defense, and shall pay one-half of the general expenses of the arbitration.

ARTICLE XIX

It is understood that the exceptions established in the second part of Article I of the present treaty relate in no way to the provision in the second paragraph of Article IV of the Treaty of Petropolis, of November 17, 1903, nor to Article IX of the same treaty; the said provisions shall continue in force.

ARTICLE XX

After this treaty shall have been approved by the legislative power of each of the two republics, it shall be ratified by the representative governments, and the ratifications exchanged in the city of La Paz or of Rio de Janeiro, as soon as possible.

ARTICLE XXI

The present treaty is concluded for a period of ten years dating from the day of the exchange of the ratifications. If it is not denounced six months before the expiration of the said period, it shall be renewed for another period of ten years, and so on successively.

In faith of which, we, the above-named plenipotentiaries, sign the present instrument in duplicate, each in the Spanish and Portuguese languages, affixing our seals thereto.

Done in the city of Petropolis on the twenty-fifth day of June of the year one thousand nine hundred and nine.
[Here follow signatures.]

No. 218

BRAZIL—SALVADOR

*General arbitration convention for settling disputes before the Hague Court of Arbitration.—Signed at San Salvador, September 3, 1909*¹

The President of the United States of Brazil and the President of the Republic of Salvador, desiring to conclude an arbitral convention in accordance with the principles set forth in Articles XV to XIX, and Article XXI of the convention for the pacific settlement of international disputes signed at The Hague on July 29, 1899, and in Articles XXXVII to XL and Article XLII of the convention signed in the same city of The Hague, on October 18, 1907, have appointed for this purpose the following plenipotentiaries; to wit:

The President of the United States of Brazil, Mr. A. de Fontoura Xavier, resident Minister of the United States of Brazil in the Republic of Salvador, and the President of the Republic of Salvador, Dr. Salvador Rodríguez G., Minister of Foreign Affairs;

Who, after having communicated to one another their full powers, found in good and due form, have agreed on the following articles.

ARTICLE I

The differences which may arise of a legal nature or relating to the interpretation of existing treaties between the two high contracting parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration at The Hague, or to any other tribunal or international court of arbitration which may at present be established, or which may be established in the future, if both parties agree on its appointment; provided that the aforesaid differences do not affect the vital interests, the independence, or the honor of the two high contracting parties, or the interest of a third state; it being furthermore understood that in case one of the two high contracting parties should consider it preferable, the arbitration referred to in this convention, may be submitted to the Chief of any friendly state or to an arbitrator or arbitrators chosen freely by the two contracting parties.

¹ Portuguese and Spanish: de Martens, *Nouveau recueil général*, 3d series, vol. VIII, p. 341. Ratifications exchanged at Washington, November 12, 1913.

ARTICLE II

In each individual case, the two high contracting parties, before appealing to the Permanent Court of Arbitration at The Hague, or to any other tribunal or international court of arbitration, or to other individual arbitrator or arbitrators, shall sign a special agreement, defining clearly the matter in dispute, the scope and limit of the powers of the court, tribunal, arbitrator or arbitrators referred to in the foregoing article, the terms fixed for appearing before the tribunal or the court, or for the election of the arbitrator or arbitrators, and the several stages of the arbitral procedure. It is understood that said special agreement may be ratified only by the President of the United States of Brazil, with the approval of both houses of the Federal Congress, and by the President of the Republic of Salvador with the approval of the National Legislative Assembly.

ARTICLE III

The present convention shall remain in effect for a period of five years, beginning from the day of the exchange of the ratifications, and unless denounced before the expiration of said term, will continue to be in force for another period of five years, and so on.

ARTICLE IV

The present convention shall be ratified by the President of the United States of Brazil, with the authority of the Federal Congress and by the President of the Republic of Salvador, with the authority of the National Legislative Assembly. The ratifications shall be exchanged in the cities of Rio de Janeiro, San Salvador, or Washington, as soon as possible.

In witness whereof, we, the aforesaid plenipotentiaries, sign the present document in duplicate in the Spanish and Portuguese languages, and fix our seals thereto.

Done in the city of San Salvador, on the thirty-first day of September, one thousand nine hundred and nine.

[Here follow signatures.]

No. 219

BRAZIL—PERU

*Provisions for the arbitration of disputes which might arise in executing a boundary treaty.—Signed at Rio de Janeiro, September 8, 1909*¹

ARTICLE II

A mixed commission, nominated by the two governments within the space of a year counting from the day of the exchange of the ratifications of the present treaty, shall proceed to the demarcation of the frontier lines described in the preceding article, their work being commenced within six months of their nomination.

The manner in which this mixed commission shall be constituted, and the instructions to which it shall be subject for the fulfilment of its duties, shall be established in a special protocol.

ARTICLE III

Differences between the Brazilian and Peruvian Commissions which are not resolved amicably by the two governments shall be by them submitted to the arbitration of three members of the Academy of Sciences of the Institute of France or of the Royal Geographical Society of London, chosen by the President of one or other of those bodies.

ARTICLE VIII

Differences which may arise between the two governments respecting the interpretation and execution of the present treaty shall be submitted to arbitration.

No. 220

CHILE—UNITED STATES

*Protocol of an agreement to arbitrate the Alsop claim.—Signed at Santiago, December 1, 1909*²

The Government of the United States of America and the Government of the Republic of Chile, through their respective plenipotentiaries, to wit:

¹ English: *British and Foreign State Papers*, vol. CII, pp. 199, 202.

Portuguese and Spanish: Brazil, *Diario Oficial*, May 5, 1910, p. 3263.

Ratifications exchanged at Rio de Janeiro, June 27, 1911.

² English: *United States Treaty Series*, No. 535½.

Spanish: Chile, *Memoria del Ministerio de Relaciones Exteriores*, 1910, p. 106.

The instrument makes no provision for ratifications or the exchange thereof.

Seth Low Pierrepont, Chargé d'Affaires of the United States of America, and Agustin Edwards, Minister of Foreign Affairs of Chile, who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following:

Protocol of submission

Whereas the Government of the United States of America and the Government of the Republic of Chile have not been able to agree as to the amount equitably due the claimants in the Alsop claim;

Therefore, the two governments have resolved to submit the whole controversy to His Britannic Majesty Edward VII who as an *aimable compositeur* shall determine what amount, if any, is, under all the facts and circumstances of the case, and taking into consideration all documents, evidence, correspondence, allegations, and arguments which may be presented by either government, equitably due said claimants.

The full case of each government shall be submitted to His Britannic Majesty, and to the other government through its duly accredited representative at St. James, within six months from the date of this agreement; each government shall then have four months in which to submit a counter case to His Britannic Majesty, and to the other government as above provided, which counter case shall contain only matters in defense of the other's case.

The case shall then be closed unless His Britannic Majesty shall call for further documents, evidence, correspondence, or arguments from either government, in which case such further documents, evidence, correspondence, or arguments shall be furnished within sixty days from the date of the call. If not so furnished within the time specified, a decision in the case shall be given as if such documents, evidence, correspondence, or arguments did not exist.

The decision by His Britannic Majesty shall be accepted as final and binding upon the two governments.

In witness whereof, the undersigned plenipotentiaries of the United States and Chile have signed the above protocol both in the English and Spanish languages, and hereunto affixed their seals.

Done in duplicate, at the City of Santiago this first day of December, one thousand nine hundred and nine.

[Here follow signatures.]

No. 221

BRAZIL—PERU

General arbitration convention.—Signed at Petropolis, December 7, 1909¹

The Government of the Republic of Peru and the Government of the Republic of the United States of Brazil, desiring to maintain on a friendly basis the relations of traditional friendship and good neighborliness, which happily exist between the two countries, have resolved to conclude a general arbitration treaty, and to that end, have named their plenipotentiaries, to wit:

The Government of the Republic of Peru, Sr. Dr. Don Herán Velarde, Envoy Extraordinary and Minister Plenipotentiary in Brazil; and

The Government of the United States of Brazil, Sr. Dr. Don José Maria de Silva Paranhos do Rio Branco, Minister of State in the Office of Foreign Affairs of the same republic;

Who, being duly authorized, have agreed on the following articles:

ARTICLE I

The high contracting parties bind themselves to submit to arbitration the controversies which may arise between them and which they may not have been able to settle by direct negotiations or by any other means of amicably settling international disputes, provided such controversies do not treat of questions affecting the vital interests, territorial integrity, sovereignty or honor of either of the two states.

ARTICLE II

Questions which may have been the object of definitive agreements between the parties shall not be renewed by virtue of this treaty. The controversies which may arise concerning the interpretation or execution of such agreements only can be submitted to arbitration.

ARTICLE III

In each individual case, the high contracting parties shall sign a special agreement establishing clearly the object of the litigation, the scope of the powers of the arbitrator or arbitrators and the rules of procedure.

¹ Portuguese and Spanish: de Martens, *Nouveau recueil général*, 3d series, vol. vi, p. 355. Ratifications exchanged at Rio de Janeiro, January 13, 1912.

It is understood that these special agreements shall be approved and ratified in each of the two republics in accordance with their respective laws.

ARTICLE IV

In the absence of a special stipulation between the parties, it shall devolve on the arbitrator or arbitrators chosen; to indicate the time and place of the meetings, outside the territories of the contracting states; choose the language to be employed; determine the methods of instruction, rules of procedure, formalities and terms to which the parties must be subject; and, in general, adopt every measure which may be necessary for the proper performance of its duties, as well as settle any difficulties which may respectively arise in the course of the proceedings.

The two governments bind themselves to submit to the arbitrator or arbitrators all the information at their disposal.

ARTICLE V

The designation of the arbitrator or arbitrators shall be made in the special agreement or in a separate instrument, after the declaration of acceptance has been received from the one or more chosen for that office.

ARTICLE VI

If it should be agreed to submit the controversy to an arbitral tribunal each one of the high contracting parties shall propose an arbitrator, whose nomination shall only be final with the consent of the other. The two arbitrators chosen shall elect a third, who shall be the president of the tribunal.

In case of disagreement on the election of the third arbitrator, the two governments shall request the President of the French Republic to make the nomination.

ARTICLE VII

Each one of the parties shall appoint one or more representatives to defend its interests before the arbitrator or arbitral tribunal.

ARTICLE VIII

Disagreements which may arise between the parties, in the course of the litigation, regarding the extent of the arbitral jurisdiction shall be decided by the same arbitrator or tribunal. The arbitral tribunal shall be competent to judge concerning the regularity of its own constitution.

ARTICLE IX

The arbitrator or arbitral tribunal shall decide in accordance with the principles of international law, or according to the special rules which the two parties may have established, or *ex aequo et bono*; that is, subject to the powers which may have been conferred in the agreement.

ARTICLE X

The three arbitrators being present the tribunal shall proceed to business and its decisions shall be adopted unanimously or by majority vote.

The concordant vote of the two arbitrators first chosen shall settle the dispute or disputes submitted to the tribunal. In case of disagreement between these two arbitrators, the president, or third arbitrator, shall adopt one of the two votes or give his own which shall be decisive.

In the absence of one of the arbitrators the meetings of the tribunal shall be suspended until he appears; but if the absent arbitrator, after being duly cited, fails to attend the deliberations or other acts of procedure, the tribunal shall function with the two present, the absence of the other being entered in the record of proceedings.

If the absent arbitrator should be the president the business of the tribunal shall likewise be suspended until he is again in attendance or until he is replaced in the manner established in the sixth article.

ARTICLE XI

The award shall definitively decide all the points in litigation and shall be drawn up in two copies signed by the arbitrator alone or by the three members of the tribunal. If any one of the three members refuses to sign it, the other two shall cause that fact to be recorded in a special act signed by both.

The awards shall or shall not be supported by argument according to the provision therefor in the respective special agreement.

ARTICLE XII

The award must be announced by the arbitrator or by the president of the arbitral tribunal to the representative of each of the parties.

ARTICLE XIII

The award duly rendered terminates within the limits of its power, the litigation between the parties. The award shall also fix the period within which it must be executed.

ARTICLE XIV

Each of the contracting states binds itself to observe and faithfully fulfil the arbitral award.

ARTICLE XV

Disputes which may arise concerning the execution of the award shall be settled by the same arbitrator or arbitral tribunal which shall have pronounced it; and if this should not be possible they shall be submitted to the decision of another arbitrator.

ARTICLE XVI

If, before completing the execution of the award, either of the two interested parties should have knowledge of the falsity or fraudulence of any document, which may have served as a basis for the award, or should prove that the latter, in whole or in part, was occasioned by an error of fact, it may interpose recourse to revision before the same arbitrator or arbitral tribunal.

ARTICLE XVII

Each one of the parties shall bear the expenses of its own representation and defense and shall pay half of the general expenses of the arbitration.

ARTICLE XVIII

It is understood that the exceptions established in the second part of Article I of the present treaty do not affect Articles III and VIII of the treaty of limits signed at Rio de Janeiro, between Peru and Brazil on September 8 of the present year, which stipulations shall continue in full force.

ARTICLE XIX

The ratifications of this treaty, which must be approved by the legislative power of each of the two republics, shall be exchanged in the city of Lima or in Rio de Janeiro as soon as possible.

ARTICLE XX

The present treaty shall remain in force for ten years, counting from the date of the exchange of ratifications. If not denounced six months before the expiration of the period, it shall be considered as renewed for another period of ten years and so on successively.

In faith whereof, we, the plenipotentiaries above named, sign the present instrument in duplicate, each one in the Spanish and Portuguese languages, sealing them with our seals.

Done in the city of Petropolis, the seventh day of the month of December of the year one thousand nine hundred and nine.
[Here follow signatures.]

No. 222

COSTA RICA—PANAMA

*Convention for the arbitration of the boundary dispute.—Signed at Washington, March 17, 1910*¹

The Republic of Costa Rica and the Republic of Panama, in view of the friendly mediation of the Government of the United States of America, and prompted by the desire to adjust in an appropriate manner their differences on account of their boundary line, have appointed plenipotentiaries as follows:

Costa Rica, His Excellency Señor Licenciado Don Luis Anderson, Envoy Extraordinary and Minister Plenipotentiary on Special Mission.

Panama, His Excellency Señor Dr. Don Belisario Porras, Envoy Extraordinary and Minister Plenipotentiary on Special Mission,

Who, after having communicated their respective full powers, and found them to be in good and due form, have agreed upon the following convention:

ARTICLE I

The Republic of Costa Rica and the Republic of Panama, although they consider that the boundary between their respective territories designated by the arbitral award of His Excellency the President of the French Republic the eleventh of September, 1900, is clear and indisputable in the region of the Pacific from Punta Burica to a point beyond Cerro Pando on the Central Cordillera near the ninth degree of north latitude, have not been able to reach an agreement in respect

¹ English: *American Journal of International Law*, Supplement, vol. vi, p. 1.

Spanish: de Martens, *Nouveau recueil général*, 3d series, vol. v, p. 678.

Ratifications exchanged at Washington, May 17, 1911.

It should be noticed that the first sentence of the fourth paragraph of Article IV of the English text reading: "The arbitrator shall communicate to the representative of each government the case, with its exhibits, of the other party within two months after they shall have been presented to him," has no counterpart in the Spanish text. This is true not only in the Spanish source cited but also in Costa Rica, *Memoria de Relaciones Exteriores*, 1910, p. 108; and also in Panama, *Memoria de Relaciones Exteriores*, 1910, p. 45. It is likewise the case in the Spanish edition of the English source cited, that is, *Revista Americana de Derecho Internacional, Suplemento*, vol. vi, p. 3. Moreover, the sentence referred to is found in the following two other English texts: *British and Foreign State Papers*, vol. ciii, p. 406 and *United States Foreign Relations*, 1910, p. 821. Furthermore the sentence appears to be essential.

to the interpretation which ought to be given to the arbitral award as to the rest of the boundary line; and for the purpose of settling their said disagreements agree to submit to the decision of the honorable the Chief Justice of the United States, who will determine, in the capacity of arbitrator, the question: What is the boundary between Costa Rica and Panama under and most in accordance with the correct interpretation and true intention of the award of the President of the French Republic made the eleventh of September, 1900?

In order to decide this the arbitrator will take into account all the facts, circumstances, and considerations which may have a bearing upon the case, as well as the limitation of the Loubet award expressed in the letter of His Excellency Monsieur Delcassé, Minister of Foreign Relations of France, to His Excellency Señor Peralta, Minister of Costa Rica in Paris, of November 23, 1900, that this boundary line must be drawn within the confines of the territory in dispute as determined by the Convention of Paris between the Republic of Costa Rica and the Republic of Colombia of January 20, 1886.

ARTICLE II

If the case shall arise for making a survey of the territory, either because the arbitrator shall deem it advisable or because either of the high contracting parties shall ask for a survey (in either of which cases it shall be made), it shall be conducted in the manner which the arbitrator shall determine upon, and by a commission of four engineers, one of whom shall be named by the President of Costa Rica, a second by the President of Panama, and the two others by the arbitrator. The persons selected by the arbitrator shall be civil engineers in private practice, in every respect independent and impartial, and without personal interest of any kind as respects either Costa Rica or Panama, and not citizens or residents of either of said countries.

Said commission shall make detailed reports, with maps of the territory covered by their survey or surveys, which reports and maps, with the data relating thereto, shall be returned to the arbitrator, and copies thereof shall be communicated to the high contracting parties.

ARTICLE III

If, by virtue of the award of the arbitrator, any portion of the territory now administered by either of the high contracting parties shall pass to the jurisdiction and sovereignty of the other, the titles to

lands or other real property rights in said region granted by the government of the former, prior to the date of this convention, shall be recognized and protected just as if they had issued from the other of them.

ARTICLE IV

One month after the ratifications of this convention are exchanged, the representatives of the two governments, or of either of them, shall make request of the Chief Justice to accept the position of arbitrator.

Within four months from the date when the Chief Justice shall communicate to the signatory governments, through their respective legations in Washington, his willingness to accept the position of arbitrator, each said government through its representative, shall present to the arbitrator a complete exposition of the question and of its pretensions, together with the documents, allegations and proofs upon which it rests them.

If any survey shall be directed, as provided in Article II, said period of four months shall begin from the delivery to the arbitrator and to the high contracting parties of the reports, maps and data of the commission of survey hereinbefore provided for.

The arbitrator shall communicate to the representative of each government the case, with its exhibits, of the other party within two months after they shall be presented to him. Within the period of six months after the arbitrator shall so communicate the same, answers thereto shall be made, and such answers shall be limited to the subjects treated of in the allegations of the opposite party. The arbitrator may, in his discretion, extend any of the foregoing periods.

The cases and the proofs sustaining the same shall be presented in duplicate and the arbitrator shall deliver a copy to the representative of each government.

Either high contracting party may submit authentic copies of documents and records when it is not practicable to produce the originals thereof.

ARTICLE V

The Chief Justice shall pronounce his award within three months following the closing of the arguments.

ARTICLE VI

The compensation and expenses of the arbitrator, including the expenses of any survey and delimitation which may be made, shall be equally borne by the high contracting parties.

ARTICLE VII

The award, whatever it be, shall be held as a perfect and compulsory treaty between the high contracting parties. Both high contracting parties bind themselves to the faithful execution of the award and waive all claims against it.

The boundary line between the two republics as finally fixed by the arbitrator shall be deemed the true line and his determination of the same shall be final, conclusive and without appeal.

Thereupon a commission of delimitation shall be constituted in the same manner as provided in Article II with respect to the commission of survey, and shall immediately thereafter proceed to mark and delimitate the boundary line, permanently, in accordance with such decision of the arbitrator. Such commission of delimitation shall act under the direction of the arbitrator, who shall settle and determine any dispute as to the same.

ARTICLE VIII

The present convention shall be submitted for the approval of the respective congresses of the Republics of Costa Rica and Panama, and ratifications shall be exchanged in the City of Washington, as soon as possible.

In witness whereof the respective plenipotentiaries have signed the present convention in duplicate, and have thereunto affixed their seals.

Done at Washington the seventeenth day of March, A. D. one thousand nine hundred and ten.

[Here follow signatures.]

No. 223

COLOMBIA—PERU

*Supplementary agreement for arbitrating disputes growing out of occurrences in the Putumayo Region.—Signed at Bogotá, April 13, 1910*¹

The Government of the Republic of Colombia and that of the Republic of Peru, desiring to carry out and amplify the provisions of

¹ Spanish: Peru, *Boletín del Ministerio de Relaciones Exteriores*, 1909, Annex xxxv, p. 174. Supplementary to agreement of April 21, 1909, No. 211, ante, p. 429.

The instrument makes no provision for ratifications or the exchange thereof; on the contrary it expressly provides that it shall be in effect from the day on which it is signed.

Article I of the diplomatic agreement of friendship and arbitration concluded in Lima on the twenty-first of April, 1909, have resolved to conclude an agreement which shall faithfully express their intentions, and have therefore duly authorized their respective plenipotentiaries, namely:

The President of the Republic of Colombia: Dr. Carlos Calderón, Minister for Foreign Affairs; and the President of the Republic of Peru, Señor Don Ernesto de Tezanos Pinto, Envoy Extraordinary and Minister Plenipotentiary of the said Republic in Bogotá, who have agreed as follows:

ARTICLE I

The Governments of Colombia and Peru agree to establish by means of this agreement an international mixed commission for the following objects:

1. To fix the amount of the pecuniary indemnity which either of the two countries may have to pay to the other on account of the loss which the authorities or citizens of that country may have occasioned to the persons or property belonging to the other in the region comprised between the Rivers Caquetá and Amazon up to the date of this agreement.

2. To determine the cases which give rise, in accordance with the laws of the country in question, to judicial investigations aiming at the condemnation and punishment of the persons responsible for punishable acts in the said territory at the said time.

ARTICLE II

The mixed commission shall meet in Rio de Janeiro, and shall consist of a delegate appointed by the Government of Colombia, another appointed by the Government of Peru, and a third in case of disagreement, who shall be His Excellency the Baron de Rio Branco, now Minister of Foreign Affairs of the United States of Brazil, who shall preside if he see fit to accept the position.

ARTICLE III

The Governments of Colombia and Peru shall request His Excellency the Baron de Rio Branco to accept the position of third arbiter in case of disagreement in the mixed international commission to which this agreement refers, and should he be unwilling or unable to accept such position, the two governments shall address themselves to His Excellency the Minister of Great Britain in Rio de Janeiro with

the same object. If the Minister of Great Britain also declines to accept it, His Excellency the Minister of the German Empire in Rio de Janeiro shall be asked to accept it, and if the latter is also unable to do so, the third arbiter shall be appointed by agreement between the delegates of Colombia and Peru, when they enter on their functions as members of the mixed commission.

ARTICLE IV

The third arbiter shall be president of the mixed commission, and his vote and opinion shall be decisive in all cases of disagreement between the members of such commission.

ARTICLE V

The mixed international commission shall meet within four months from the day when the present agreement is signed, and shall have the power to send commissioners appointed by it to such places as it may consider necessary, in order to obtain trustworthy details and reports which may aid its judgment and serve as a basis to give a decision with full knowledge of the subject.

ARTICLE VI

The Governments of Colombia and Peru shall be permitted to present to the commission all kinds of explanations, memorials, and statements of proof and counter-proof, and shall have full liberty to defend their claims verbally and in writing during the period fixed for that purpose by the mixed commission.

ARTICLE VII

Within the period of four months after the expiration of the period fixed for the presentation of the pleadings, replies, and counter-replies, proofs and counter-proofs by the parties, the international mixed commission shall give its decision in respect of the cases which give rise to the legal proceedings mentioned in Article I, paragraph 2.

ARTICLE VIII

Within the same period of four months the mixed international commission shall equally fix in its arbitral decision the sum to be paid in accordance with Article I, paragraph 1, by either of the two governments to the other by way of indemnity, in favor of the persons who may have suffered material or personal harm by reason of punishable acts, and in favor of the families of the victims of such acts.

ARTICLE IX

These payments are to be fixed in English gold and shall be paid in the same, in the capital of the country held responsible for such payments, four months at latest after the date of the decision of the international mixed commission.

Private individuals who submit to the decisions of the mixed commission with regard to indemnities for harm suffered tacitly renounce the right to make a fresh claim for new indemnities on the same grounds against the government granting the earlier indemnity.

ARTICLE X

When the mixed commission has fulfilled its task, it shall communicate its decision to the respective governments, in order that, following the appropriate criminal procedure according to the laws of the country involved, the penalties laid down in those laws may be imposed.

In order to decide which of the two republics is responsible in each case for the judging and punishment of the guilty parties, the mixed commission shall observe the following rules:

1. The courts of each of the republics shall have to take cognizance of the misdeeds committed by its officials or public servants in the exercise of their functions.

2. The courts of each of the republics shall similarly have to take cognizance of the misdeeds committed by the commanders, officers, or men of the troops of its army, or by the commanders, officers, or crews of its war vessels or of vessels employed in its service.

3. Misdeeds committed by private individuals shall be dealt with in the courts of the republic in whose territory such misdeeds were committed.

If the punishable acts took place on territory disputed between the two republics, the commission shall decide which of them has to take up the criminal action, taking solely into consideration which of the two republics possessed constituted authorities in such territory. But if the responsible person be in territory occupied by his country of origin, at the moment when the mixed commission decides to whose jurisdiction he has to be submitted, he shall be judged according to the laws of such country. The citizens or subjects of a third country shall be judged by the judges of the country in which they are after this agreement has been signed.

If the punishable acts occurred in territory in which neither of the

contracting parties possessed constituted authorities at the time, then the courts of the country to which the accused persons belong shall have the duty of taking cognizance of such acts.

The provisions of this article do not imply, on the part of one of the contracting republics, the recognition of the jurisdiction exercised by its neighbor over the disputed territory, for purposes other than the carrying into effect of the arbitral award.

ARTICLE XI

The award of the mixed commission shall be definitive and without appeal, and shall come into effect on the day on which it is issued.

The said award shall be communicated to the legations of the two countries in Rio de Janeiro, or, in default of such legations, to the respective governments.

ARTICLE XII

The Government of Colombia and that of Peru shall arrange and pay separately the fees of their respective arbitrators, and shall agree in common on that of the third arbitrator. This latter, as well as the other similar expenses occasioned by the mixed commission, shall be divided and paid by the two governments within the period of three months after all the questions submitted to the decision of the mixed commission have been settled.

ARTICLE XIII

This agreement shall be considered as reforming that concluded in Lima by His Excellency the Envoy Extraordinary and Minister Plenipotentiary of Colombia in that city and the Minister of Foreign Affairs of Peru on the twenty-first of April, 1909, and shall be in effect from the day on which it is signed.

In faith of which the present agreement is signed in duplicate at Bogotá, this thirteenth day of April, one thousand nine hundred and ten.

[Here follow signatures.]

No. 224

BRAZIL—HAITI

*General arbitration convention for the settlement of disputes before the Hague Court of Arbitration.—Signed at Washington, April 25, 1910*¹

The President of the Republic of Haiti and the President of the Republic of the United States of Brazil, desiring to conclude an arbitration convention in accord with the principles set forth in Articles XV to XIX and XXI of the convention for the pacific settlement of international disputes, signed at The Hague July 29, 1899, and in Articles XXXVII to XL and XLII of the convention signed in the same city of The Hague, October 18, 1907, have named as their plenipotentiaries, to wit:

The President of the Republic of Haiti, Mr. H. Pauléus Sannon, Envoy Extraordinary and Minister Plenipotentiary to Washington;

The President of the United States of Brazil, Mr. Rinaldo de Lima e Silva, Chargé d'Affaires at Washington;

Who, duly authorized, have agreed upon the following articles:

ARTICLE I

Differences of a juridical nature or relating to the interpretation of treaties existing between the two high contracting parties, which may arise between them and which can not be settled by diplomatic means, shall be submitted to the Permanent Court of Arbitration established at The Hague by the convention of July 29, 1899, upon condition, however, that they affect neither the vital interest, independence nor honor of the contracting states and that they do not affect the interests of third powers, it being further agreed that if one of the two contracting parties prefers it, every arbitration resulting from the present convention shall be submitted to a state executive, to a friendly government, or to one or more arbitrators chosen outside of the list of the Hague Tribunal.

ARTICLE II

In each particular case, the high contracting parties, before addressing themselves to the Permanent Court at The Hague, to other

¹ Portuguese and French: Brazil, *Diario Oficial de Brazil*, June 8, 1913.

Ratifications were exchanged at Washington, November 21, 1912. See de Martens, *Nouveau recueil général*, 3d series, vol. viii, p. 153, where the French and Portuguese texts are also found.

arbitrators or to a single arbitrator, shall sign a special agreement determining exactly the object of the litigation, the scope of the powers of the arbitrator or arbitrators, and the conditions to be observed in all that concerns the period of time for the formation of the arbitral tribunal or the choice of the arbitrator or arbitrators, as well as the rules of procedure.

These special agreements shall be submitted, in the two states, to the formalities required by the constitutional laws.

ARTICLE III

The present convention is concluded for a period of five years, reckoned from the day of the exchange of ratifications. If it is not denounced six months before the expiration of that period, it shall remain in force for another period of five years, and in like manner for similar periods thereafter.

ARTICLE IV

The present convention shall be ratified after the accomplishment of the legal formalities in the two states, and the ratifications shall be exchanged at Washington as soon as possible.

In faith of which, we, the plenipotentiaries named below, sign the present instrument, in duplicate, each in the French and Portuguese languages, and attach thereto our seals, at Washington, April twenty-fifth, one thousand nine hundred and ten.

[Here follow signatures.]

No. 225

BRAZIL—DOMINICAN REPUBLIC

*General arbitration convention for the settlement of disputes before the Hague Court of Arbitration.—Signed at Washington, April 29, 1910*¹

The President of the Dominican Republic and the President of the Republic of the United States of Brazil, desiring to conclude an arbitration convention in conformity with the principles enunciated in Articles XV to XIX and XXI of the convention for the pacific settlement of international disputes signed at The Hague July 29, 1899, and Articles XXXVII to XL and XLII of the treaty which, with

¹ Portuguese and Spanish: Brazil, *Diario Oficial*, June 8, 1913.

Ratifications were exchanged at Washington, March 13, 1913. See de Martens, *Nouveau recueil général*, 3d series, vol. VIII, p. 156.

the same object, was likewise signed at The Hague, October 18, 1907, have named their plenipotentiaries, to wit:

The President of the Dominican Republic, Mr. Emilio C. Joubert, Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

The President of the United States of Brazil, Mr. Rinaldo de Lima e Silva, Chargé d'Affaires in the United States of America;

Who, duly authorized, have agreed upon the following articles:

ARTICLE I

Differences which may arise between the two high contracting parties on questions of a juridical nature or relative to the interpretation of treaties in force, which exist or may exist between the two, and which it may not have been possible to settle by diplomacy, shall be submitted to the Permanent Court of Arbitration at The Hague by virtue of the convention of July 29, 1899, provided such questions do not affect the vital interests, independence or honor of the contracting states and do not concern the interests of another state; it being, moreover, understood that if one of the two parties prefers, the arbitration originating from questions to which the present convention refers, shall be conducted before a chief of state or a friendly government or before one or more arbitrators without limitation to those who form part of the personnel of the aforesaid Permanent Court of Arbitration at The Hague.

ARTICLE II

In each individual case, before appealing to any single arbitrator, to the Permanent Court of The Hague, or to other arbitrators, the two high contracting parties shall sign a special agreement determining clearly the matter in dispute, the extent of the powers of the arbitrator or arbitrators and the conditions to be observed respecting the periods for the constitution of the tribunal, the election of the arbitrator or arbitrators, and the stages of the arbitral procedure.

The said special agreements shall be submitted, in the two countries, to the formalities required by the constitutional laws of each.

ARTICLE III

The present convention is concluded for a period of five years from the date of the exchange of ratifications. If not denounced six months before the end of this period, it shall remain in force for a new period of five years, and so on successively.

ARTICLE IV

After the formalities required by the constitutional laws in each of the two countries have been fulfilled, the present convention shall be ratified and the ratifications exchanged in the city of Washington as soon as possible.

In faith whereof, we, the plenipotentiaries above named, sign the present instrument in duplicate in the Spanish and Portuguese languages, affixing thereto our seals, in Washington, April twenty-ninth, one thousand nine hundred and ten.

[Here follow signatures.]

No. 226

MEXICO—UNITED STATES

*Convention for the arbitration of the Chamizal case.—Signed at Washington, June 24, 1910*¹

The United States of America and the United States of Mexico, desiring to terminate, in accordance with the various treaties and conventions now existing between the two countries, and in accordance with the principles of international law, the differences which have arisen between the two governments as to the international title to the Chamizal tract, upon which the members of the International Boundary Commission have failed to agree, and having determined to refer these differences to the said Commission, established by the convention of 1889, which for this case only shall be enlarged as hereinafter provided, have resolved to conclude a convention for that purpose, and have appointed as their respective plenipotentiaries:

The President of the United States of America, Philander C. Knox, Secretary of State of the United States of America; and

The President of the United States of Mexico, Don Francisco León de la Barra, Ambassador Extraordinary and Plenipotentiary of the United States of Mexico at Washington;

Who, after having exhibited their respective full powers, and having found the same to be in good and due form, have agreed upon the following articles:

¹ English and Spanish: *United States Statutes at Large*, vol. 36, p. 2481. See supplementary protocol of December 5, 1910, No. 228, *post*, p. 472. Ratifications were exchanged at Washington, January 24, 1910.

ARTICLE I

The Chamizal tract in dispute is located at El Paso, Texas, and Ciudad Juarez, Chihuahua, and is bounded westerly and southerly by the middle of the present channel of the Rio Grande, otherwise called Rio Bravo del Norte, easterly by the middle of the abandoned channel of 1901, and northerly by the middle of the channel of the river as surveyed by Emory and Salazar in 1852, and is substantially as shown on a map on a scale of 1-5,000, signed by General Anson Mills, Commissioner on the part of the United States, and Señor Don F. Javier Osorno, Commissioner on the part of Mexico, which accompanies the report of the International Boundary Commission, in Case No. 13, entitled "Alleged Obstruction in the Mexican End of the El Paso Street Railway Bridge and Backwaters Caused by the Great Bend in the River Below," and on file in the archives of the two governments.

ARTICLE II

The difference as to the international title of the Chamizal tract shall be again referred to the International Boundary Commission, which shall be enlarged by the addition, for the purposes of the consideration and decision of the aforesaid difference only, of a third Commissioner, who shall preside over the deliberations of the Commission. This Commissioner shall be a Canadian jurist and shall be selected by the two governments by common accord, or, failing such agreement, by the Government of Canada, which shall be requested to designate him. No decision of the Commission shall be perfectly valid unless the Commission shall have been fully constituted by the three members who compose it.

ARTICLE III

The Commission shall decide solely and exclusively as to whether the international title to the Chamizal tract is in the United States of America or Mexico. The decision of the Commission, whether rendered unanimously or by majority vote of the Commissioners, shall be final and conclusive upon both governments, and without appeal. The decision shall be in writing and shall state the reasons upon which it is based. It shall be rendered within thirty days after the close of the hearings.

ARTICLE IV

Each government shall be entitled to be represented before the Commission by an agent and such counsel as it may deem necessary to

designate; the agent and counsel shall be entitled to make oral argument and to examine and cross-examine witnesses and, provided that the Commission so decides, to introduce further documentary evidence.

ARTICLE V

On or before December 1, 1910, each government shall present to the agent of the other party two or more printed copies of its case, together with the documentary evidence upon which it relies. It shall be sufficient for this purpose if each government delivers the copies and documents aforesaid at the Mexican Embassy at Washington or at the American Embassy at the city of Mexico, as the case may be, for transmission. As soon thereafter as possible, and within ten days, each party shall deliver two printed copies of its case and accompanying documentary evidence to each member of the Commission. Delivery to the American and Mexican Commissioners may be made at their offices in El Paso, Texas; the copies intended for the Canadian Commissioner may be delivered at the British Embassy at Washington or at the British Legation at the City of Mexico.

On or before February 1, 1911, each government may present to the agent of the other a counter-case, with documentary evidence, in answer to the case and documentary evidence of the other party. The counter-case shall be delivered in the manner provided in the foregoing paragraph.

The Commission shall hold its first session in the city of El Paso, State of Texas, where the offices of the International Boundary Commission are situated, on March 1, 1911, and shall proceed to the trial of the case with all convenient speed, sitting either at El Paso, Texas, or Ciudad Juarez, Chihuahua, as convenience may require.

The Commission shall act in accordance with the procedure established in the boundary convention of 1889. It shall, however, be empowered to adopt such rules and regulations as it may deem convenient in the course of the case.

At the first meeting of the three Commissioners each party shall deliver to each of the Commissioners and to the agent of the other party, in duplicate, with such additional copies as may be required, a printed argument showing the points relied upon in the case and counter-case, and referring to the documentary evidence upon which it is based. Each party shall have the right to file such supplemental printed brief as it may deem requisite. Such briefs shall be filed

within ten days after the close of the hearings, unless further time be granted by the Commission.

ARTICLE VI

Each Government shall pay the expenses of the presentation and conduct of its case before the Commission; all other expenses which by their nature are a charge on both governments, including the honorarium for the Canadian Commissioner, shall be borne by the two governments in equal moieties.

ARTICLE VII

In case of the temporary or permanent unavoidable absence of any one of the Commissioners, his place will be filled by the government concerned, except in the case of the Canadian jurist. The latter under any like circumstances shall be replaced in accordance with the provisions of this convention.

ARTICLE VIII

If the arbitral award provided for by this convention shall be favorable to Mexico, it shall be executed within the term of two years, which can not be extended, and which shall be counted from the date on which the award is rendered. During that time the *status quo* shall be maintained in the Chamizal tract on the terms agreed upon by both governments.

ARTICLE IX

By this convention the contracting parties declare to be null and void all previous propositions that have reciprocally been made for the diplomatic settlement of the Chamizal case; but each party shall be entitled to put in evidence by way of information such of this official correspondence as it deems advisable.

ARTICLE X

The present Convention shall be ratified in accordance with the constitutional forms of the contracting parties and shall take effect from the date of the exchange of its ratifications.

The ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above articles, both in the English and Spanish languages, and have hereunto affixed their seals.

Done in duplicate at the city of Washington, this twenty-fourth day of June, one thousand nine hundred and ten.

[Here follow signatures.]

No. 227

ARGENTINA — BRAZIL — CHILE — COLOMBIA — COSTA RICA—CUBA—DOMINICAN REPUBLIC—ECUADOR—GUATEMALA—HAITI—HONDURAS—MEXICO—NICARAGUA—PANAMA—PARAGUAY—PERU—SALVADOR—URUGUAY—UNITED STATES—VENEZUELA

*Convention for the arbitration of pecuniary claims.—Signed at Buenos Aires, August 11, 1910*¹

Their Excellencies the Presidents of the United States of America, Argentine Republic, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, Uruguay and Venezuela;

Being desirous that their respective countries may be represented at the Fourth International American Conference have sent thereto the following delegates, duly authorized to approve the recommendations, resolutions, conventions and treaties which may be advantageous to the interests of America:

United States of America: Henry White, Enoch H. Crowder, Lewis Nixon, John Bassett Moore, Bernard Moses, Lamar C. Quintero, Paul Samuel Reinsch, David Kinley.

Argentine Republic: Antonio Bermejo, Eduardo L. Bidau, Manuel A. Montes de Oca, Epifanio Portela, Carlos Rodríguez Larreta, Carlos Salas, José A. Terry, Estanislao S. Zeballos.

United States of Brazil: Joaquim Murtinho, Domicio da Gama, José L. Almeida Nogueira, Olavo Bilac, Gastão da Cunha, Herculanio de Freitas.

¹ English, Portuguese, Spanish, and French: *United States Statutes at Large*, vol. 38, p. 1799.

Replacing the treaty signed January 30, 1902, No. 164, *ante*, p. 313, which had been extended by that signed August 13, 1906, No. 188, *ante*, p. 362.

Ratifications were not to be exchanged but were to be transmitted to the Government of the Argentine Republic which was to communicate them to the other contracting powers. The records of the Department of State of the United States show that ratifications were deposited as follows: United States, May 1, 1911; Guatemala, April 27, 1912; Dominican Republic, May 18, 1912; Nicaragua, October 15, 1912; Honduras, January 30, 1913; Panama, March 13, 1913; Ecuador, April 11, 1914; Bolivia, May 15, 1914; Brazil, May 5, 1915; Costa Rica, July 12, 1916; Paraguay, June 20, 1917; Uruguay, December 18, 1919. Bolivia's action was an adhesion since that country had not been represented in the negotiation.

Republic of Chile: Miguel Cruchaga Tocornal, Emilio Bello Codecido,
Aníbal Cruz Díaz, Beltrán Mathieu.

Republic of Colombia: Roberto Ancizar.

Republic of Costa Rica: Alfredo Volio.

Republic of Cuba: Carlos Garcia Vélez, Rafael Montoro y Valdés,
Gonzalo de Quesada y Aróstegui, Antonio Gonzalo Pérez, José M.
Carbonell.

Dominican Republic: Américo Lugo.

Republic of Ecuador: Alejandro Cárdenas.

Republic of Guatemala: Luis Toledo Herrarte, Manuel Arroyo,
Mario Estrada.

Republic of Haiti: Constantin Fouchard.

Republic of Honduras: Luis Lazo Arriaga.

Mexican United States: Victoriano Salado Alvarez, Luis Pérez
Verdía, Antonio Ramos Pedrueza, Roberto A. Esteva Ruiz.

Republic of Nicaragua: Manuel Pérez Alonso.

Republic of Panama: Belisario Porras.

Republic of Paraguay: Teodosio González, José P. Montero.

Republic of Peru: Eugenio Larrabure y Unánue, Carlos Alvarez
Calderón, José Antonio de Lavalle y Pardo.

Republic of Salvador: Federico Mejía, Francisco Martínez Suárez.

Republic of Uruguay: Gonzalo Ramírez, Carlos M. de Pena, Antonio
M. Rodríguez, Juan José de Amézaga.

United States of Venezuela: Manuel Díaz Rodríguez, César Zumeta.

Who, after having presented their credentials and the same having
been found in due and proper form, have agreed upon the following
convention on pecuniary claims.

First. The high contracting parties agree to submit to arbitration
all claims for pecuniary loss or damage which may be presented by
their respective citizens and which can not be amicably adjusted
through diplomatic channels, when said claims are of sufficient impor-
tance to warrant the expense of arbitration.

The decision shall be rendered in accordance with the principles of
international law.

Second. The high contracting parties agree to submit to the deci-
sion of the Permanent Court of Arbitration of The Hague all contro-
versies which are the subject-matter of the present treaty, unless both
parties agree to constitute a special jurisdiction.

If a case is submitted to the Permanent Court of The Hague, the
high contracting parties accept the provisions of the treaty relating to

the organization of that arbitral tribunal, to the procedure to be followed and to the obligation to comply with the sentence.

Third. If it shall be agreed to constitute a special jurisdiction, there shall be prescribed in the convention by which this is determined the rules according to which the tribunal shall proceed, which shall have cognizance of the questions involved in the claims referred to in Article first of the present treaty.

Fourth. The present treaty shall come into force immediately after the thirty-first of December 1912, when the treaty on pecuniary claims, signed at Mexico, on January 31, 1902, and extended by the treaty signed at Rio de Janeiro on August 13, 1906, expires.

It shall remain in force indefinitely, as well for the nations which shall then have ratified it as those which shall ratify it subsequently.

The ratifications shall be transmitted to the Government of the Argentine Republic, which shall communicate them to the other contracting parties.

Fifth. Any of the nations ratifying the present treaty may denounce it, on its own part, by giving two years' notice in writing, in advance, of its intention so to do.

This notice shall be transmitted to the Government of the Argentine Republic and through its intermediation, to the other contracting parties.

Sixth. The treaty of Mexico shall continue in force after December 31, 1912, as to any claims which may, prior to that date, have been submitted to arbitration under its provisions.

In witness whereof, the plenipotentiaries and delegates sign this convention and affix to it the Seal of the Fourth International American Conference.

Made and signed in the city of Buenos Aires, on the eleventh day of August in the year one thousand nine hundred and ten, in the Spanish, English, Portuguese and French languages, and filed in the Ministry of Foreign Affairs of the Argentine Republic, in order that certified copies may be taken to be forwarded through the appropriate diplomatic channels to each one of the signatory nations.

[Here follow signatures.]

No. 228

MEXICO—UNITED STATES

*Supplementary protocol to the convention for the arbitration of the Chamizal case.—Signed at Washington, December 5, 1910*¹

The plenipotentiaries who negotiated and signed the convention of June 24, 1910, for the arbitration of the Chamizal case, being thereunto duly empowered by their respective governments, have agreed upon the following supplementary protocol:

Whereas it has become necessary, owing to the lapse of time, that the dates fixed by Article V of the before-mentioned convention be changed, it is hereby agreed as follows:

The date for the presentation of the respective cases and documentary evidence is fixed for February 15, 1911;

The date for the presentation of the respective counter-cases and documentary evidence is fixed for April 15, 1911;

The date for the first session of the Commission is fixed for May 15, 1911.

All other provisions of the convention of June 24, 1910, remain unchanged.

This supplementary protocol shall be ratified in accordance with the constitutional forms of the contracting parties and shall take effect from the date of the exchange of its ratifications.

The ratifications of the convention and the supplementary protocol shall be exchanged at Washington as soon as possible.

In witness whereof, the respective plenipotentiaries have signed the above supplementary protocol, both in the English and Spanish languages, and have hereunto affixed their seals.

Done in duplicate at the city of Washington, this fifth day of December, one thousand nine hundred and ten.

[Here follow signatures.]

¹ English and Spanish: *United States Statutes at Large*, vol. 36, p. 2487. Ratifications exchanged at Washington, January 24, 1911.

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